

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-FOURTH DAY — THURSDAY, MAY 22, 2003

The house met at 9 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 645).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Telford.

The invocation was offered by Richard Goodrich, pastor, Moody Memorial First United Methodist Church, Galveston, as follows:

God of all people, by the banks of the mighty Colorado River, this Texas House of Representatives gathers this day to conduct the awesome responsibility of serving your children in the State of Texas. These representatives come from many different backgrounds—men and women, African American, Anglo, Hispanic, Native American, Asian, Polynesian—from many different places—the Gulf Coast, the piney woods, the plains, the rolling hills, the Rio Grande Valley, the mountains of the Big Bend—with many different faiths, and with many different political persuasions. Yet they all come wanting to serve your children who often face overwhelming needs in their lives—health, economic, education, employment, housing, and retirement—men, women, and children who sometimes have trouble knowing how to live in a world so often torn apart by war, often under the threat of terrorism and crime, and often with capricious

weather conditions. These representatives know that the problems facing the people of Texas often seem unsolvable and that they have many different answers for these problems. Open their minds and their hearts to hear the small quiet voice of your providential spirit guiding them to solutions. Let them listen to one another with openness and respect so that even when they fail to agree, they may recognize the value of views from those with whom they disagree. So that when the gavel falls at the end of this day, the children of the great State of Texas may know a little more hope, a little more happiness, and a little more dignity in their lives, until all of the people of this state, this nation, and this world, may know the great joy of life and creation which you will for all of your children.

Bless the leaders of this legislature, the governor and leaders of the State of Texas, the president and leaders of the United States of America, and all world leaders. Grant them the wisdom and the courage to find ways to bring a just and lasting peace so that all of your children throughout the world may know liberty and justice in their lives. We pray in the name of the God of us all. Amen.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business in the district:

Telford on motion of Hopson.

(Crownover in the chair)

HR 1404 - ADOPTED (by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 1404**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1404, Honoring Chevron Phillips Chemical Company, now headquartered in The Woodlands.

HR 1404 was adopted without objection.

On motion of Representative Hope, the names of all the members of the house were added to **HR 1404** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative Eissler who introduced Craig Glidden of Chevron Phillips Chemical Company.

HR 1360 - ADOPTED (by Baxter)

Representative Baxter moved to suspend all necessary rules to take up and consider at this time **HR 1360**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1360, Honoring Austin-Travis County Emergency Medical Services.

HR 1360 was adopted without objection.

On motion of Representative Rodriguez, the names of all the members of the house were added to **HR 1360** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Baxter who introduced representatives of the Austin-Travis County Emergency Medical Services.

HR 1406 - ADOPTED

(by Chisum)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 1406**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1406, In memory of U.S. Army Captain Russell W. Condon, recipient of the Silver Star award.

HR 1406 was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1406** as signers thereof.

HR 1105 - ADOPTED

(by Solomons)

Representative Solomons moved to suspend all necessary rules to take up and consider at this time **HR 1105**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1105, In memory of Chief Master Sergeant Stephen D. Vollbrecht.

HR 1105 was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The chair recognized Representative Solomons who introduced the family of Chief Master Sergeant Stephen D. Vollbrecht.

HR 977 - ADOPTED

(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 977**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 977, Recognizing May 22, 2003, as THE GREAT TEXAS BLOOD DONOR ROUNDUP DAY at the State Capitol.

HR 977 was adopted without objection.

CAPITOL PHYSICIAN

The chair recognized Representative Garza who presented Dr. Mary Nguyen-Poole of Castroville as the "Doctor for the Day."

The house welcomed Dr. Nguyen-Poole and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

HB 545 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Wohlgemuth called up with senate amendments for consideration at this time,

HB 545, A bill to be entitled An Act relating to military discharge records that are recorded with or otherwise in the possession of a governmental body.

On motion of Representative Wohlgemuth, the house concurred in the senate amendments to **HB 545**.

Senate Committee Substitute

HB 545, A bill to be entitled An Act relating to military discharge records that are recorded with or otherwise in the possession of a governmental body.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.140 to read as follows:

Sec. 552.140. MILITARY DISCHARGE RECORDS. (a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

(b) The record is confidential for the 75 years following the date it is recorded with or otherwise first comes into the possession of a governmental body. During that period the governmental body may permit inspection or copying of the record or disclose information contained in the record only in accordance with this section or in accordance with a court order.

(c) On request and the presentation of proper identification, the following persons may inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the record:

- (1) the veteran who is the subject of the record;
- (2) the legal guardian of the veteran;
- (3) the spouse or a child or parent of the veteran or, if there is no living spouse, child, or parent, the nearest living relative of the veteran;
- (4) the personal representative of the estate of the veteran;
- (5) the person named by the veteran, or by a person described by Subdivision (2), (3), or (4), in an appropriate power of attorney executed in accordance with Chapter XII, Section 490, Texas Probate Code; or

(6) another governmental body.

(d) A court that orders the release of information under this section shall limit the further disclosure of the information and the purposes for which the information may be used.

(e) A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained.

SECTION 2. Section 192.002, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c)(1) This subsection applies only in relation to a military discharge record that is recorded with a county clerk under this section before September 1, 2003.

(2) The veteran who is the subject of the record or the legal guardian of the veteran may direct, in writing, that the county clerk destroy all copies of the record that the county clerk makes readily available to the public for purposes of Section 191.006, such as paper copies of the record in the county courthouse or a courthouse annex, microfilm or microfiche copies of the record in the county courthouse or a courthouse annex, and electronic copies of the record that are available to the public. The county clerk shall comply with the direction within 15 business days after the date the direction is received. The county clerk's compliance does not violate any law of this state relating to the preservation, destruction, or alienation of public records. The direction to destroy the copies of the record, the county clerk's compliance, and any delay between the time the direction is made and the time the county clerk destroys the copies may not be used to limit or restrict the public's access to the real property records of the county.

(3) A county clerk who receives a request under Chapter 552, Government Code, for inspection or duplication of a military discharge record recorded before September 1, 2003, is only required to search for the record in places where or media in which the county clerk makes records readily available to the public for purposes of Section 191.006, such as paper records stored in the county courthouse or a courthouse annex, microfilmed or microfiched records stored in the county courthouse or a courthouse annex, and electronically stored records made available to the public. This subdivision does not apply to a request made by the veteran who is the subject of the military discharge record or the legal guardian of the veteran.

SECTION 3. This Act takes effect September 1, 2003.

**HB 1822 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kuempel called up with senate amendments for consideration at this time,

HB 1822, A bill to be entitled An Act relating to participation and credit in, contributions to, and benefits and administration of the Texas Municipal Retirement System.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 1822**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1822** as follows:

(1) Insert a new SECTION 23 to read as follows (committee printing, page 7, between lines 61 and 62):

SECTION 23. A member of the Texas Municipal Retirement System who, on December 31, 2003, was an employee of a municipality that adopted an ordinance under Section 853.502, Government Code, before the effective date of this Act may, as long as the person remains an employee of that municipality, elect to purchase credit for military service under Section 853.504(b), Government Code, as that provision existed immediately before the effective date of this Act, for a period that does not exceed the limitation provided by Section 853.504(c), Government Code. Eligibility to purchase the credit is as provided by Section 853.502, Government Code, as amended by this Act.

(2) Renumber existing SECTIONS 23 and 24 accordingly.

**HB 1264 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative R. Cook called up with senate amendments for consideration at this time,

HB 1264, A bill to be entitled An Act relating to the sale of wine by certain holders of a winery permit.

On motion of Representative R. Cook, the house concurred in the senate amendments to **HB 1264**.

Senate Committee Substitute

HB 1264, A bill to be entitled An Act relating to the sale of wine by holders of a winery permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.01(d), Alcoholic Beverage Code, is amended to read as follows:

(d) The holder of a winery permit may sell wine to ultimate consumers for consumption on or off winery premises and dispense free wine for consumption on or off the winery premises ~~[if the winery is located:~~

~~[(1) in a city that:~~

~~[(A) is located in three or more counties, at least one of which has a population of 500,000 or more; and~~

~~[(B) has within its boundaries all or part of an international airport;~~

~~[(2) in a county that:~~

~~[(A) has a population of 240,000 or more; and~~

~~[(B) borders:~~

~~[(i) the Gulf of Mexico; and~~

~~[(ii) a county that has within its boundaries all or part of an international airport; or~~

~~[(3) in a county that:~~

~~[(A) has a population of 20,000 or more; and~~

~~[(B) has within its boundaries all or part of three or more American viticultural areas, as recognized and defined by the United States Bureau of Alcohol, Tobacco and Firearms].~~

SECTION 2. This Act takes effect September 1, 2003.

**HB 882 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Christian called up with senate amendments for consideration at this time,

HB 882, A bill to be entitled An Act relating to student center fees at Stephen F. Austin State University.

On motion of Representative Christian, the house concurred in the senate amendments to **HB 882** by (Record 646): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover(C); Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Telford.

Absent — Chavez.

Senate Committee Substitute

HB 882, A bill to be entitled An Act relating to student center fees at Stephen F. Austin State University.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.520, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) To the extent approved by the students under Subsection (b) ~~[of this section]~~, the board of regents of Stephen F. Austin State University may charge each student enrolled in one or more courses conducted by by ~~[on the main campus]~~

~~of~~ the university a ~~[regular, fixed]~~ fee in the amount of \$9 for each semester credit hour, in a total amount of at least \$35 but not to exceed \$85 ~~[\$15]~~ per student for each semester or ~~[of the long session and not to exceed \$7.50 per student for all or part of each six week term of the]~~ summer session, for the purpose of acquiring, constructing, renovating, operating, maintaining, improving, equipping, and financing a [the] university center ~~[and acquiring]~~ or ~~[constructing]~~ additions to the center. ~~[The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the university center.]~~ The fees authorized in this section supplement any other use or service fee authorized by law.

(b) The decision to levy ~~[such]~~ a fee under this section, ~~[the amount of the initial fee, and any increase in the fee]~~ must be approved by a majority vote of those students participating in a general election called for that purpose.

SECTION 2. The change in law made by this Act applies only to fees imposed for a semester or term that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

HB 1937 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1937, A bill to be entitled An Act relating to star of Texas awards for peace officers, firefighters, and emergency medical first responders who are killed or sustain serious or fatal injuries in the line of duty.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 1937** by (Record 647): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crownover(C); Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez;

Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Telford.

Absent — Capelo; Crabb; Eiland; Moreno, P.; Noriega.

Senate Committee Substitute

HB 1937, A bill to be entitled An Act relating to designating September 11 as Texas First Responders Day and creating star of Texas awards for peace officers, firefighters, and emergency medical first responders who are killed or sustain serious or fatal injuries in the line of duty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 662, Government Code, is amended by adding Section 662.050 to read as follows:

Sec. 662.050. TEXAS FIRST RESPONDERS DAY. (a) September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies.

(b) Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools and other places to honor Texas first responders. Each governmental entity may determine the appropriate ceremonies by which Texas observes Texas First Responders Day.

SECTION 2. Subtitle A, Title 11, Government Code, is amended by adding Chapter 3105 to read as follows:

CHAPTER 3105. STAR OF TEXAS AWARDS

Sec. 3105.001. DEFINITIONS. In this chapter:

(1) "Emergency medical first responder" means an employee or volunteer of the state, a political subdivision, or an emergency medical services provider who provides urgent on-site medical care to the sick or injured.

(2) "Firefighter" includes a volunteer firefighter.

(3) "Peace officer" means a peace officer commissioned by the state or a political subdivision of the state under Article 2.12, Code of Criminal Procedure, or other law.

Sec. 3105.002. PEACE OFFICERS' STAR OF TEXAS AWARD. (a) The Peace Officers' Star of Texas Award may be awarded to a peace officer who is seriously injured in the line of duty or the surviving next of kin of a peace officer who is killed or sustains a fatal injury in the line of duty.

(b) The Peace Officers' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation of the Peace Officers' Star of Texas Award.

(c) The committee consists of three current or retired peace officers appointed by the governor who have each served with distinction during a lengthy career as a peace officer.

Sec. 3105.003. FIREFIGHTERS' STAR OF TEXAS AWARD. (a) The Firefighters' Star of Texas Award may be awarded to a firefighter who is seriously injured in the line of duty or the surviving next of kin of a firefighter who is killed or sustains a fatal injury in the line of duty.

(b) The Firefighters' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation of the Firefighters' Star of Texas Award.

(c) The committee consists of three current or retired firefighters appointed by the governor who have each served with distinction during a lengthy career as a firefighter.

Sec. 3105.004. EMERGENCY MEDICAL FIRST RESPONDERS' STAR OF TEXAS AWARD. (a) The Emergency Medical First Responders' Star of Texas Award may be awarded to an emergency medical first responder who is seriously injured in the line of duty or the surviving next of kin of an emergency medical first responder who is killed or sustains a fatal injury in the line of duty.

(b) The Emergency Medical First Responders' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation of the Emergency Medical First Responders' Star of Texas Award.

(c) The committee consists of three current or retired emergency medical first responders appointed by the governor who have each served with distinction during a lengthy career as an emergency medical first responder.

Sec. 3105.005. GENERAL MATTERS AFFECTING ADVISORY COMMITTEE. (a) Each member of an advisory committee created under this chapter serves at the will of the governor.

(b) The governor shall designate the presiding officer of each advisory committee.

(c) Each advisory committee shall meet once annually at the call of the governor or the presiding officer of the committee not later than three weeks before September 11, and at a location deemed appropriate by the governor or the governor's representative.

(d) A member of an advisory committee may not receive compensation for service on the committee or reimbursement for travel expenses incurred while conducting the business of the committee.

(e) An advisory committee is not subject to Chapter 2110.

Sec. 3105.006. PRESENTATION; AWARD. (a) The governor or the governor's representative shall present in the name of the state a star of Texas award under this chapter to the appropriate recipient or surviving next of kin during a public ceremony held on, or as near as practicable to, September 11 of each year.

(b) At a minimum, the award shall consist of a medal, a certificate, and a ribbon suitable for wearing on a uniform.

Sec. 3105.007. RECOMMENDATION FOR AWARD. Any person who has personal knowledge that a peace officer, firefighter, or emergency medical first responder has been killed or seriously injured in the line of duty may submit that information in writing to a committee under this chapter.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

**HB 2021 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Farabee called up with senate amendments for consideration at this time,

HB 2021, A bill to be entitled An Act relating to the bankruptcy notice required to be filed by a regulated oil and gas entity.

On motion of Representative Farabee, the house concurred in the senate amendments to **HB 2021**.

Senate Committee Substitute

HB 2021, A bill to be entitled An Act relating to the bankruptcy notice required to be filed by a regulated oil and gas entity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 91.142, Natural Resources Code, is amended by adding Subsection (h) to read as follows:

(h) To enable the commission to better protect the state's resources, an entity described by Subsection (a) or an affiliate of such an entity performing operations within the jurisdiction of the commission that files for federal bankruptcy protection shall give written notice to the commission of that action by submitting the notice to the office of general counsel not later than the 30th day after the date of filing.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by Section 91.142(h), Natural Resources Code, as added by this Act, applies only to a bankruptcy filing that occurs on or after September 1, 2003.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**HB 1199 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Krusee called up with senate amendments for consideration at this time,

HB 1199, A bill to be entitled An Act relating to local option elections for the sale of alcoholic beverages; providing a criminal penalty.

On motion of Representative Krusee, the house concurred in the senate amendments to **HB 1199**.

Senate Committee Substitute

HB 1199, A bill to be entitled An Act relating to local option elections for the sale of alcoholic beverages; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.37, Alcoholic Beverage Code, is amended by adding Subsection (c) to read as follows:

(c) Once a permit is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

SECTION 2. Section 61.37, Alcoholic Beverage Code, is amended by adding Subsection (c) to read as follows:

(c) Once a license is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

SECTION 3. Section 251.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.03. APPLICATION FOR PETITION. If 10 or more qualified voters of any county, justice precinct, or incorporated city or town file a written application and provide proof of publication in a newspaper of general circulation in that political subdivision, the county clerk of the county shall issue to the applicants a petition to be circulated among the qualified voters of that political subdivision for the signatures of those qualified voters in the area who desire that a local option election be called in that area for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision. Not later than the fifth day after the date the petition is issued, the county clerk shall notify the commission and the secretary of state that the petition has been issued.

SECTION 4. Section 251.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.07. HEADING AND STATEMENT ON PETITION TO PROHIBIT. Each page of the ~~The~~ petition for a local option election seeking to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Prohibit." The petition shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above." The petition must clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

SECTION 5. Section 251.08, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.08. HEADING AND STATEMENT ON PETITION TO LEGALIZE. Each page of the ~~The~~ petition for a local option election seeking to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Legalize." The petition shall contain a statement just ahead of the signatures of

the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above." The petition must clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

SECTION 6. Subchapter A, Chapter 251, Alcoholic Beverage Code, is amended by adding Section 251.081 to read as follows:

Sec. 251.081. OFFENSE: MISREPRESENTATION OF PETITION. A person commits an offense if the person misrepresents the purpose or effect of a petition issued under this chapter. An offense under this section is a Class B misdemeanor.

SECTION 7. Section 251.10, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.10. VERIFICATION OF PETITION. (a) The registrar of voters of the county shall check the names of the signers of petitions and the voting precincts in which they reside to determine whether the signers of the petition were qualified voters of the county, justice precinct, or incorporated city or town at the time the petition was issued. The political subdivision may use a statistical sampling method to verify the signatures. On written request from a citizen in the political subdivision for which an election is sought, the political subdivision shall verify each signature on the petition. The citizen making the request shall pay the reasonable cost of the verification. The registrar shall certify to the commissioners court the number of qualified voters signing the petition.

(b) A petition ~~[No]~~ signature may not be counted unless the signature ~~[-]~~ either by the registrar or commissioners court, where there is reason to believe ~~that:~~

~~[(1) it] is [not] the actual signature of the purported signer and the petition:~~

(1) contains in addition to the signature:

(A) the signer's printed name;

(B) the signer's date of birth;

(C) if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(D) the signer's residence address; and

(E) the date of signing; and

(2) complies with any other applicable requirements prescribed by law~~[-]~~

~~[(2) the voter registration certificate number is not correct;~~

~~[(3) the voter registration certificate number is not in the actual handwriting of the signer;~~

~~[(4) it is a duplication either of a name or of handwriting used in any other signature on the petition;~~

~~[(5) the residence address of the signer is not correct or is not in the actual handwriting of the signer; or~~

~~[(6) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued].~~

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) The signature is the only entry on the petition that is required to be in the signer's handwriting.

(f) A signer may withdraw the signer's signature by deleting the signature from the petition or by filing with the registrar of voters an affidavit requesting that the signature be withdrawn from the petition. A signer may not withdraw the signature from a petition on or after the date the petition is received by the registrar of voters. A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the registrar of voters. The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

SECTION 8. Section 251.11, Alcoholic Beverage Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) ~~The [Except as provided by Subsection (b) or (c), the] commissioners court, at its next regular session on or after the 30th day after the date the petition is filed, shall order a local option election to be held on the issue set out in the petition if the petition is filed with the registrar of voters not later than the 60th day [30 days] after the date the petition [it] is issued and bears [in the actual handwriting of the signers the following:~~

~~[(1)] the actual signatures of a number of qualified voters of the political subdivision equal to:~~

(1) 35 percent of the registered voters in the subdivision for a ballot issue that permits voting for or against:

(A) "The legal sale of all alcoholic beverages for off-premise consumption only.";

(B) "The legal sale of all alcoholic beverages, except mixed beverages.";

(C) "The legal sale of all alcoholic beverages including mixed beverages."; or

(D) "The legal sale of mixed beverages.";

(2) 25 percent of the registered voters in the subdivision who voted in the most recent general election for a ballot issue that permits voting for or against "The legal sale of wine on the premises of a holder of a winery permit.";
or

(3) 35 percent of the registered voters in the subdivision who voted in the most recent gubernatorial election for an election on any other ballot issue [a notation showing the residence address of each of the signers; and

[(3) each signer's voter registration certificate number].

(d) Voters whose names appear on the list of registered voters with the notation "S," or a similar notation, shall be excluded from the computation of the number of registered voters of a particular territory.

SECTION 9. Section 251.18, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.18. ELECTION IN CERTAIN CITIES AND TOWNS. (a) This section applies only to an election to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents~~:-~~

~~[(1) mixed beverages by a food and beverage certificate holder] in an incorporated city or town that is located in more than one county~~:-or~~~~

~~[(2) beer and wine in an incorporated city or town that does not permit beer and wine sales on September 1, 2001, and is located in:~~

~~[(A) two counties:~~

~~[(i) that each have a population of at least 250,000 but not more than one million; and~~

~~[(ii) one of which contains a city or town with a population of 125,000 or more; or~~

~~[(B) three counties:~~

~~[(i) that each have a population of not more than 300,000; and~~

~~[(ii) one of which contains a city or town with a population of 20,000 or more].~~

(b) An election to which this section applies shall be conducted by the city or town instead of the county. For the purposes of an election conducted under this section, a reference in this code ~~[in this subchapter and Subchapters B and C]:~~

(1) ~~[a reference]~~ to the county is considered to refer to the city or town;

(2) ~~[a reference]~~ to the commissioners court is considered to refer to the governing body of the city or town;

(3) ~~[a reference]~~ to the county clerk or registrar of voters is considered to refer to the secretary of the city or town or, if the city or town does not have a secretary, to the person performing the functions of a secretary of the city or town; and

(4) ~~[a reference]~~ to the county judge is considered to refer to the mayor of the city or town or, if the city or town does not have a mayor, to the presiding officer of the governing body of the city or town.

(c) The city or town shall pay the expense of the election.

(d) An action to contest the election under Section 251.55 may be brought in the district court of any county in which the city or town is located.

SECTION 10. Section 251.31(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The votes shall be counted ~~[after the polls are closed]~~ and the report of the election submitted to the commissioners court within 24 hours after the closing of the polls.

SECTION 11. Section 251.35(c), Alcoholic Beverage Code, is amended to read as follows:

(c) Election watchers may be appointed in accordance with general law[; ~~but they must be qualified voters of the election precinct where they serve~~].

SECTION 12. Sections 251.11(b), 251.19, 251.32, 251.33, 251.35(a), and 251.36, Alcoholic Beverage Code, and Section 251.11(c), Alcoholic Beverage Code, as added by Chapters 1001 and 1062, Acts of the 77th Legislature, Regular Session, 2001, are repealed.

SECTION 13. The changes in law made by this Act apply only to a local option election for which an application for a petition is filed on or after the effective date of this Act. A local option election for which an application for a petition is filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 14. An application for a permit to upgrade from the sale of beer and wine to the sale of mixed beverages that was pending certification under Section 11.37, Alcoholic Beverage Code, before May 1, 2003, for an area for which a permit was issued for the sale of mixed beverages and in which a local option election to prohibit the sale of alcoholic beverages was not held subsequent to the date of the original application for the upgrade and before May 1, 2003, may be resubmitted, if necessary, regardless of any previous action taken on the application. The application shall be certified under Section 11.37, Alcoholic Beverage Code, if the application otherwise meets the requirements prescribed by applicable law. This section expires September 1, 2004.

SECTION 15. This Act takes effect September 1, 2003.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Heflin on motion of Lewis.

Luna on motion of Lewis.

Turner on motion of Lewis.

Wohlgemuth on motion of Lewis.

The following member were granted leaves of absence for today to attend a meeting of the conference committee on **HB 1**:

Pitts on motion of Lewis.

HB 1471 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 1471, A bill to be entitled An Act relating to the duties and removal of a trustee.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 1471**.

Senate Committee Substitute

HB 1471, A bill to be entitled An Act relating to the duties and removal of a trustee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 113, Property Code, is amended by adding Section 113.0211 to read as follows:

Sec. 113.0211. ADJUSTMENT OF CHARITABLE TRUST. (a) In this section:

(1) "Charitable entity" has the meaning assigned by Section 123.001(1).

(2) "Charitable trust" means a trust:

(A) the stated purpose of which is to benefit only one or more charitable entities; and

(B) that qualifies as a charitable entity.

(b) The trustee of a charitable trust may acquire, exchange, sell, supervise, manage, or retain any type of investment, subject to restrictions and procedures established by the trustee and in an amount considered appropriate by the trustee, that a prudent investor, exercising reasonable skill, care, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the trust. The prudence of a trustee's actions under this subsection is judged with reference to the investment of all of the trust assets rather than with reference to a single trust investment.

(c) The trustee of a charitable trust may make one or more adjustments between the principal and the income portions of a trust to the extent that the trustee considers the adjustments necessary:

(1) to comply with the terms of the trust, if any, that describe the amount that may or must be distributed to a charitable entity beneficiary by referring to the income portion of the trust; and

(2) to administer the trust in order to carry out the purposes of the charitable trust.

(d) The authority to make adjustments under Subsection (c) includes the authority to allocate all or part of a capital gain to trust income.

(e) In making adjustments under Subsection (c), the trustee shall consider:

(1) except to the extent that the terms of the trust clearly manifest an intention that the trustee shall or may favor one or more charitable entity beneficiaries, the needs of a charitable entity beneficiary, based on what is fair and reasonable to all other charitable entity beneficiaries of the trust, if any; and

(2) the need of the trust to maintain the purchasing power of the trust's investments over time.

SECTION 2. Section 113.082, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A trustee may be removed in accordance with the terms of the trust instrument, or, on the petition of an interested person and after hearing, a court may, in its discretion, remove a trustee and deny part or all of the trustee's compensation if:

(1) the trustee materially violated or attempted to violate the terms of the trust and the violation or attempted violation results in a material financial loss to the trust;

(2) the trustee becomes incompetent or insolvent; ~~[or]~~

(3) the trustee fails to make an accounting that is required by law or by the terms of the trust; or

(4) in the discretion of the court, for other cause.

(c) A trustee of a charitable trust may not be removed solely on the grounds that the trustee exercised the trustee's power to adjust between principal and income under Section 113.0211.

SECTION 3. Section 113.151(a), Property Code, is amended to read as follows:

(a) A beneficiary by written demand may request the trustee to deliver to each beneficiary of the trust a written statement of accounts covering all transactions since the last accounting or since the creation of the trust, whichever is later. If the trustee fails or refuses to deliver the statement on or before the 90th day after the date the trustee receives the demand or after a longer period ordered by a court ~~[within a reasonable time after the demand is made]~~, any beneficiary of the trust may file suit to compel the trustee to deliver the statement to all beneficiaries of the trust. The court may require the trustee to deliver a written statement of account to all beneficiaries on finding that the nature of the beneficiary's interest in the trust or the effect of the administration of the trust on the beneficiary's interest is sufficient to require an accounting by the trustee. However, the trustee is not obligated or required to account to the beneficiaries of a trust more frequently than once every 12 months unless a more frequent accounting is required by the court. If a beneficiary is successful in the suit to compel a statement under this section, the court may, in its discretion, award all or part of the costs of court and all of the suing beneficiary's reasonable and necessary attorney's fees and costs against the trustee in the trustee's individual capacity or in the trustee's capacity as trustee.

SECTION 4. This Act takes effect September 1, 2003, and applies only to a demand for an accounting made on or after that date.

HB 2679 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 2679, A bill to be entitled An Act relating to the authority of a guardian of the person of a ward to transport the ward to an inpatient mental health facility and file for emergency detention under certain circumstances and to consent to the administration of certain medication.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 2679**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2679** on page 5, line 23 by inserting "who is 18 years of age or older" after the word "ward" and before ";".

**HB 1730 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hamric called up with senate amendments for consideration at this time,

HB 1730, A bill to be entitled An Act relating to the leasing and contracting powers of a port authority or navigation district.

On motion of Representative Hamric, the house concurred in the senate amendments to **HB 1730** by (Record 648): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover(C); Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kruse; Kuempel; Laney; Laubenberg; Lewis; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Telford.

Absent, Excused, Committee Meeting — Heflin; Luna; Pitts; Turner; Wohlgemuth.

Senate Committee Substitute

HB 1730, A bill to be entitled An Act relating to the leasing and contracting powers of a port authority or navigation district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 60.039, Water Code, is amended to read as follows:

Sec. 60.039. SURFACE LEASE FOR NOT MORE THAN 30 [~~40~~] YEARS. The commission may lease the surface of land for not more than 30 [~~40~~] years by the entry of an order on the minutes of the commission and the

execution of a lease in the manner provided by the original order. The lease may not be extended beyond the 30-year [~~10-year~~] period by renewal, extension, or otherwise.

SECTION 2. Section 60.040, Water Code, is amended to read as follows:

Sec. 60.040. PUBLICATION OF NOTICE FOR SALES AND LEASES IN EXCESS OF 30 [~~40~~] YEARS. Before making a sale or lease of land for more than 30 [~~40~~] years, the commission shall publish a notice in the manner provided in Section 60.035 of this subchapter.

SECTION 3. Section 60.041, Water Code, is amended to read as follows:

Sec. 60.041. SECURITY FOR BIDS ON LAND TO BE SOLD OR LEASED FOR MORE THAN 30 [~~40~~] YEARS. Each bid submitted on land to be sold or leased for more than 30 [~~40~~] years shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the bid for the land or for the first rental payment under the lease and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission.

SECTION 4. The heading to Section 60.042, Water Code, is amended to read as follows:

Sec. 60.042. AWARD AND EXECUTION OF DEED OR LEASE IN EXCESS OF 30 [~~40~~] YEARS.

SECTION 5. Section 60.151, Water Code, is amended to read as follows:

Sec. 60.151. PURPOSE. It is the purpose and intent of this subchapter to confer on districts individually, jointly, or mutually interested in a navigation project, including a project relating to improvements and facilities described in Sections 60.032 and 60.101 of this code, the fullest possible power of contract with regard to navigation or other projects of individual or common interest.

SECTION 6. Section 60.152(a), Water Code, is amended to read as follows:

(a) One [~~Two~~] or more districts, which are interested in or may, in the judgment of the commission, be benefited by a navigation or other project, may enter into contracts with the United States or with another district [~~each other~~], or both, to consummate navigation or other projects of common interest.

SECTION 7. Section 60.403(a), Water Code, is amended to read as follows:

(a) A port commission, ~~or~~ authorized designated officer of the port commission, or authorized designated employee of a port authority or district may make routine purchases or contracts in an amount not to exceed \$25,000.

SECTION 8. Subchapter N, Chapter 60, Water Code, is amended by adding Section 60.4035 to read as follows:

Sec. 60.4035. CONTRACTS: EMERGENCY PURCHASES. (a) Notwithstanding Sections 60.404 and 60.406, the executive director of a port commission or an officer of a port commission authorized in writing by the executive director of the port commission may make emergency purchases or contracts in an amount that exceeds \$25,000 if necessary:

(1) to preserve or protect the public health and safety of the residents of the district;

(2) to preserve the property of the district in the case of a public calamity;

(3) to repair unforeseen damage to the property of the district; or

(4) to respond to security directives issued by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the federal Department of Transportation, including the Maritime Administration; or

(D) another federal or state agency responsible for domestic security.

(b) The executive director of a port commission or the authorized officer of the port commission shall notify the port commissioners of any purchase made under Subsection (a) not later than 48 hours after the purchase is made.

SECTION 9. Section 60.404(d), Water Code, is amended to read as follows:

(d) The specifications must:

(1) describe in detail the item to be acquired;

(2) require that bids be sealed; ~~and~~

(3) require the attachment to the bid of a certified check, cashier's check, or bidders bond; and

(4) indicate whether a small business development program adopted by the port commission of the port authority or district applies to the purchase and, if so, where a copy of the program requirements may be obtained.

SECTION 10. Subchapter N, Chapter 60, Water Code, is amended by adding Section 60.4115 to read as follows:

Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL RECORD OF CONTRACTOR. (a) A person that enters into a contract with a district or port authority shall provide, at the request of the district or port authority, notice to the district or authority of any citation, notice of violation or penalty, or other similar document regarding a serious safety or environmental violation that the person received from an agency or department of this state or of the federal government. The notice must include:

(1) a general description of the conduct that resulted in the citation, violation, penalty, or similar sanction; and

(2) the document from the agency or department that provided notice to the person of the citation, violation, penalty, or similar sanction.

(b) A district or port authority may terminate a contract with a person if the district or authority determines that the person failed to give notice as required by Subsection (a) or misrepresented conduct that resulted in a citation, notice of violation or penalty, or similar sanction. The district or port authority shall compensate the person for services performed before the termination of the contract.

(c) This section applies to all purchasing methods available to a district or port authority.

SECTION 11. Section 60.412(a), Water Code, is amended to read as follows:

(a) A contract for a purchase is exempt from the requirements of Sections 60.404 and 60.405 of this code if a contract is for the purchase of:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the district or port authority;

(2) an item necessary to preserve or protect the public health or the safety of the residents of the district or port authority;

(3) an item made necessary by unforeseen damage to the property of the district or port authority;

(4) a personal or professional service;

(5) any work performed and paid for by the day as the work progresses;

(6) any land or right-of-way; ~~or~~

(7) an item that can be obtained only from one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) public utility services; and

(D) captive replacement parts or components for equipment; or

(8) any item necessary to secure a district or port authority during a period of heightened security as determined by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the United States Customs Service;

(D) the Federal Bureau of Investigation;

(E) the federal Department of Transportation, including the Maritime Administration; or

(F) another federal, state, or local agency.

SECTION 12. Section 60.4125, Water Code, is amended by adding Subsection (d) to read as follows:

(d) If a purchase or contract made under Subsection (a) is subject to a small business development program adopted by the port commission of the port authority or district, the purchase solicitation must indicate that fact and must also indicate where a copy of the program requirements may be obtained.

SECTION 13. (a) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

(b) Sections 60.4035 and 60.4115, Water Code, as added by this Act, and Sections 60.404 and 60.4125, Water Code, as amended by this Act, apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

(c) The changes in law made to Sections 60.039, 60.040, 60.041, and 60.042, Water Code, by this Act apply to a lease entered into before, on, or after the effective date of this Act.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 43).

HB 1702 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Taylor called up with senate amendments for consideration at this time,

HB 1702, A bill to be entitled an Act relating to the sale and subsequent lease of property by certain counties.

Representative Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1702**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1702**: Taylor, chair; Geren; W. Smith; Miller; and J. Davis.

HB 2926 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

HB 2926, A bill to be entitled An Act relating to the regulation of marine manufacturers, dealers, and distributors.

On motion of Representative Geren, the house concurred in the senate amendments to **HB 2926**.

Senate Committee Substitute

HB 2926, A bill to be entitled An Act relating to the regulation of marine manufacturers, dealers, and distributors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.003, Parks and Wildlife Code, is amended by amending Subdivision (7) and adding Subdivision (16) to read as follows:

(7) "Dealer" means a person [~~customarily~~] engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year at an established or permanent place of business in this state [~~and that at each place of~~

~~business there is a sign conspicuously displayed showing the name of the dealership so that it may be located by the public and sufficient space to maintain an office, service area, and display of products].~~

(16) "Distributor" means a person who offers for sale, sells, or processes for distribution new boats or outboard motors to dealers in this state.

SECTION 2. Subchapter A, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.007 to read as follows:

Sec. 31.007. DEALER REQUIREMENTS. A dealer shall:

(1) display in each of the dealer's places of business a sign that:

(A) is conspicuous to the public; and

(B) shows the name of the dealership; and

(2) operate in a space sufficient to maintain an office, service area, and display of products.

SECTION 3. Section 31.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.021. REQUIRED NUMBERING. (a) Each [~~undocumented~~] vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.

(b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) the certificate of number awarded to the vessel is in full force and effect; and

(3) the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel as required by this chapter.

SECTION 4. Section 31.032, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.032. NUMBERING ON BOW. (a) The owner of a vessel shall paint on or attach to each side of the vessel near the bow the identification number and a validation decal in the manner prescribed by the department. The number shall read from left to right and shall be of block characters of good proportion of not less than three inches in height. The numbers shall be of a color which will contrast with the hull material of the vessel and so maintained as to be clearly visible and legible.

(b) The owner of a vessel required to be numbered under this subchapter and documented by the United States Coast Guard is not required to attach an identification number as required by Subsection (a).

(c) The commission shall adopt rules for the placement of the validation decal in an alternate location for antique boats. In this subsection, "antique boat" means a boat that:

(1) is used primarily for recreational purposes; and

(2) was manufactured before 1968.

SECTION 5. Section 31.039, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.039. PUBLIC RECORDS; FEES. (a) All ownership records of the department made or kept under this chapter are public records.

(b) The commission may by rule charge a fee for access to ownership records and other records made or kept under this chapter.

SECTION 6. Section 31.041, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.041. DEALER'S, DISTRIBUTOR'S, AND MANUFACTURER'S LICENSE [NUMBER]. (a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section. A dealer must have a license for each place of business owned and operated by the person.

(b) The commission shall establish the form and manner for display of a license issued under this section.

(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).

(d) A dealer, distributor, or manufacturer of vessels in this state may use the [obtain a] dealer's, distributor's, or [and] manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event.

(e) [(b)] The application for a license under this section [number] must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An [The] application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or [and] manufacturer's number is \$500 [\$45 or an amount set by the commission, whichever amount is more]. A license [No number] may not be issued until the provisions of this section have been satisfied.

(f) [(e)] A dealer, distributor, or manufacturer holding a dealer's, distributor's, or [and] manufacturer's license [number] may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. A person purchasing a vessel may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display of the number shall be prescribed by the department.

(g) [(d)] A dealer, distributor, or manufacturer holding a dealer's, distributor's, or [and] manufacturer's license [number] may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business. [Any other person transferring a vessel or outboard motor must secure a certificate of number or certificate of title in the person's name before transferring the certificate of number or the certificate of title.]

SECTION 7. Subchapter B, Chapter 31, Parks and Wildlife Code, is amended by adding Sections 31.0411, 31.0412, and 31.0413 to read as follows:

Sec. 31.0411. TERM OF LICENSE; TRANSFER. (a) Except as provided by Subsection (b), a license issued under Section 31.041:

- (1) is valid for two years from the date of issuance; and
- (2) may not be transferred to another person.

(b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A license issued under Section 31.041 may be transferred to a new address if:

- (1) a business moves to another location; and
- (2) a change of ownership has not occurred.

Sec. 31.0412. LICENSING RULES. The commission may adopt rules regarding licenses issued under Section 31.041, including rules:

- (1) regarding license transfer procedures;
- (2) prescribing application forms;
- (3) regarding application and renewal procedures;
- (4) prescribing reporting and recordkeeping requirements for license

holders; and

- (5) setting fees to be charged for:
 - (A) a transferred license; or
 - (B) a replacement license.

Sec. 31.0413. EXEMPTION FROM DEALER LICENSING REQUIREMENTS. The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that is less than 12 feet in length and has a horsepower rating of five horsepower or less or to the sale of an outboard motor with a manufacturer's rating of five horsepower or less.

SECTION 8. Section 31.042(b), Parks and Wildlife Code, is amended to read as follows:

(b) Causes for cancellation of certificates and voiding of numbers include:

- (1) surrender of the certificate for cancellation;
- (2) issuance of a new number for the same vessel;
- (3) ~~issuance of a marine document by the Bureau of Customs for the same vessel;~~

~~same vessel;~~

- [(4)] false or fraudulent certification in an application for number;

(4) [(5)] failure to pay the prescribed fee; and

(5) [(6)] dismantling, destruction, or other change in the form or character of the vessel or outboard motor so that it is no longer correctly described in the certificate or it no longer meets the definition of a vessel or outboard motor.

SECTION 9. Subchapter B, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.044 to read as follows:

Sec. 31.044. INSPECTIONS. A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or distributor's or manufacturer's place of business during normal business hours.

SECTION 10. Subchapter B-1, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.0465 to read as follows:

Sec. 31.0465. APPEAL REGARDING CERTIFICATE OF TITLE; BOND; RULES. (a) An applicant for a certificate of title under Section 31.046 may appeal the department's refusal to issue the title by filing a bond with the department as provided by this section.

(b) A bond filed under this section must be:

(1) in the form prescribed by the department;

(2) executed by the applicant;

(3) issued by a person authorized to act as a surety business in this state;

(4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(A) the issuance of the certificate of title for the vessel or outboard motor; or

(B) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the vessel or outboard motor.

(c) The department may issue the certificate of title to the person filing the bond if the applicant proves to the satisfaction of the department that:

(1) the vessel or outboard motor is not stolen; and

(2) issuance of a certificate of title would not defraud the owner or a lienholder of the vessel or outboard motor.

(d) A person described by Subsection (b)(5) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(5). The aggregate liability of the surety to all persons may not exceed the amount of the bond.

(e) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(f) On return of a bond under Subsection (e), the department shall issue a certificate of title to the person to whom the bond is returned.

(g) In addition to the situation described by Subsection (c), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.

SECTION 11. Section 31.049(c), Parks and Wildlife Code, is amended to read as follows:

(c) If there is a lien on the vessel or outboard motor, the original certificate of title shall be sent to the first lienholder~~[, a duplicate original certificate shall be sent to the owner,]~~ and a copy shall be retained by the department.

SECTION 12. Section 31.053, Parks and Wildlife Code, is amended by adding Subsection (f) to read as follows:

(f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.

SECTION 13. Section 31.127(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 14. (a) Not later than January 1, 2004, the Parks and Wildlife Commission shall adopt any rules necessary to implement this Act.

(b) A person is not required to be licensed under Section 31.041, Parks and Wildlife Code, as amended by this Act, until March 1, 2004. Before that date, the person is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2003.

SB 104 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Allen submitted the conference committee report on **SB 104**.

Representative Allen moved to adopt the conference committee report on **SB 104**.

A record vote was requested.

The motion prevailed by (Record 649): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb;

Crownover(C); Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Telford.

Absent, Excused, Committee Meeting — Heflin; Luna; Pitts; Turner; Wohlgenuth.

Absent — Chavez.

INTRODUCTION OF GUEST

The chair recognized Representative Ritter who introduced Pamela A. Carley.

HR 1372 - ADOPTED (by Noriega)

Representative Noriega moved to suspend all necessary rules to take up and consider at this time **HR 1372**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1372, Honoring the Houston East End Lions Club on its 75th anniversary.

HR 1372 was adopted without objection.

SCR 52 - ADOPTED (Bonnen - House Sponsor)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **SCR 52**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 52, Paying tribute to the live oak champion in Texas located in the San Bernard National Wildlife Refuge.

SCR 52 was adopted without objection.

HR 1408 - ADOPTED
(by J. Jones)

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HR 1408**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1408, Commending the 2003 graduates of Rylie Academy in Dallas.

HR 1408 was adopted without objection.

HR 1285 - ADOPTED
(by T. Smith)

Representative T. Smith moved to suspend all necessary rules to take up and consider at this time **HR 1285**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1285, Honoring retiring Hurst-Eules-Bedford Independent School District Board of Trustees member Lorraine Tatarevich.

HR 1285 was adopted without objection.

HR 1286 - ADOPTED
(by T. Smith)

Representative T. Smith moved to suspend all necessary rules to take up and consider at this time **HR 1286**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1286, Congratulating the Honorable John Murphy, past mayor of the City of Bedford.

HR 1286 was adopted without objection.

HR 1403 - ADOPTED
(by Coleman)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 1403**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1403, Commending the University of Houston for welcoming Jody Williams, recipient of the 1997 Nobel Prize for Peace, as a Distinguished Visiting Professor for the 2003-2004 academic year.

HR 1403 was adopted without objection.

(Rodriguez in the chair)

HR 974 - ADOPTED
(by Hodge)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 974**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 974, In memory of Patty Ray Fischer of Corpus Christi.

HR 974 was unanimously adopted by a rising vote.

On motion of Representative J. Jones, the names of all the members of the house were added to **HR 974** as signers thereof.

HR 1298 - ADOPTED
(by Hodge, J. Jones, Giddings, Y. Davis, and Alonzo)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 1298**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1298, Congratulating Thaddeus and Lilla McGowen on the birth of their daughter, Omni LaBelle McGowen.

HR 1298 was adopted without objection.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1298** as signers thereof.

HR 1366 - ADOPTED
(by Raymond and Guillen)

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 1366**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1366, Recognizing Ashley Mitchell as Laredo's Youth of the Year.

HR 1366 was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Raymond who introduced Ashley Mitchell, her parents, and members of the Border Patrol.

HCR 248 - ADOPTED
(by Hilderbran and Keel)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HCR 248**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 248, Recognizing Hill's Cafe in Austin as the home of the Texas Heritage Songwriters Collection.

HCR 248 was adopted without objection.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSSB 282 ON SECOND READING
(Bailey and Dunnam - House Sponsors)

CSSB 282, A bill to be entitled An Act relating to the continuation and functions of the Texas State Board of Plumbing Examiners; providing penalties.

CSSB 282 was read second time on May 21 and was postponed until 2:30 p.m., May 21.

Amendment No. 1

Representative Hardcastle offered the following amendment to **CSSB 282**:

Amend **CSSB 282** by inserting a new SECTION 1 in the bill (page 1, between lines 4 and 5, house committee printing) to read as follows, and by renumbering the SECTIONS of the bill appropriately:

SECTION 1. Subchapter A, Chapter 1301, Occupations Code, is amended by adding Section 1301.004 to read as follows:

Sec. 1301.004. APPLICATION OF CHAPTER TO CERTAIN COUNTIES. Notwithstanding this chapter or any other law, this chapter does not apply to a county with a population of 50,000 or less.

(West in the chair)

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Miller offered the following amendment to **CSSB 282**:

Amend **CSSB 282** by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill appropriately:

SECTION _____. Section 1301.052, Occupations Code, is amended to read as follows:

Sec. 1301.052. WORK INSIDE OR OUTSIDE MUNICIPALITIES. A person is not required to be licensed under this chapter to perform plumbing [~~on a property that is~~]:

(1) [~~located in a subdivision or on a tract of land that is not required to be platted under Section 232.0015, Local Government Code; or~~

~~[(2) not connected to a public water system and is located]~~ outside a municipality; or

(2) inside a municipality with fewer than 5,000 inhabitants, unless an ordinance of the municipality requires the person to be licensed.

SECTION _____. In accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1301.052, Occupations Code, as set out in Section ____ of this Act, gives effect to changes made by Chapter 791, Acts of the 77th Legislature, Regular Session, 2001.

Representative Dunnam moved to table Amendment No. 2.

The motion to table was lost.

HR 1363 - ADOPTED
(by Marchant)

Representative Marchant moved to suspend all necessary rules to take up and consider at this time **HR 1363**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1363, Honoring Dallas Shannon Marchant on her graduation from Carrollton Christian Academy.

HR 1363 was adopted without objection.

On motion of Representative Swinford, the names of all the members of the house were added to **HR 1363** as signers thereof.

HR 1364 - ADOPTED
(by Marchant)

Representative Marchant moved to suspend all necessary rules to take up and consider at this time **HR 1364**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1364, Honoring Luke Beckett Marchant on his graduation from Southern Nazarene University.

HR 1364 was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1364** as signers thereof.

HB 1307 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Marchant called up with senate amendments for consideration at this time,

HB 1307, A bill to be entitled An Act relating to the administration, operation, and regulation of credit unions.

On motion of Representative Marchant, the house concurred in the senate amendments to **HB 1307**.

Senate Committee Substitute

HB 1307, A bill to be entitled An Act relating to the administration, operation, and regulation of credit unions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.402, Finance Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1) and (d) to read as follows:

(a) The commission may adopt reasonable rules necessary to administer ~~[for administering]~~ this chapter and to accomplish the purposes of Subtitle D, Title 3.

(b-1) In adopting rules under this section, the commission shall consider the need to:

(1) promote a stable credit union environment;

(2) provide credit union members with convenient, safe, and competitive services;

(3) preserve and promote the competitive parity of credit unions with regard to other depository institutions consistent with the safety and soundness of credit unions; and

(4) promote or encourage economic development in this state.

(c) The commission by rule shall establish ~~[set]~~ reasonable and necessary fees for the administration of this chapter and Subtitle D, Title 3 ~~[, charges, and revenues required to be paid by a credit union].~~

(d) The presence or absence in this chapter or Subtitle D, Title 3, of a specific reference to rules regarding a particular subject does not enlarge or diminish the rulemaking authority provided by this section.

SECTION 2. Section 15.403, Finance Code, is amended to read as follows:

Sec. 15.403. SUPERVISION AND REGULATION OF CREDIT UNIONS.

~~[(a) The commission and commissioner have the jurisdiction, powers, and duties formerly conferred by law on the banking commissioner of Texas in relation to managing, regulating, and supervising credit unions.~~

~~[(b)]~~ The commissioner shall supervise and regulate a credit union doing business in this state, other than a federal credit union, in accordance with this chapter and Subtitle D, Title 3, including rules adopted under this chapter and Subtitle D, Title 3.

SECTION 3. Subchapter E, Chapter 15, Finance Code, is amended by adding Sections 15.4031 and 15.4032 to read as follows:

Sec. 15.4031. CREDIT UNION COMMISSIONER HEARING. (a) The commissioner may convene a hearing to receive evidence and argument regarding any matter under this chapter or Subtitle D, Title 3, before the commissioner for decision or review. The hearing must be conducted under Chapter 2001, Government Code. A matter made confidential by law must be considered by the commissioner in a closed hearing.

(b) A hearing officer may conduct any hearing on behalf of the commissioner.

Sec. 15.4032. EXAMINATION OF RELATED ENTITIES. (a) In accordance with rules adopted by the commission, the commissioner may examine, to the same extent as if the services or activities were performed by a credit union on its own premises:

(1) a credit union service organization in which a credit union has a material interest;

(2) an organization engaged primarily in the business of managing one or more credit unions; and

(3) a third-party contractor providing electronic data processing, electronic fund transfers, or other member services on behalf of a credit union.

(b) The commissioner may collect a fee from an examined contractor or organization in connection with each examination to cover the cost of the examination or may collect that fee from the credit unions that use the examined contractor.

SECTION 4. Section 15.404, Finance Code, is amended to read as follows:

Sec. 15.404. ADMINISTRATION AND ENFORCEMENT OF STATUTES AND RULES. The commissioner shall administer and enforce this chapter and Subtitle D, Title 3, and rules adopted under this chapter and Subtitle D, Title 3.

SECTION 5. Subchapter E, Chapter 15, Finance Code, is amended by adding Sections 15.4041, 15.4042, 15.4043, 15.413, and 15.414 to read as follows:

Sec. 15.4041. ISSUANCE OF INTERPRETIVE STATEMENTS. (a) The commissioner may issue interpretive statements containing matters of general policy to guide the public and credit unions, and may amend or repeal a published interpretive statement by issuing an amended statement or notice of repeal of a statement.

(b) An interpretive statement may be disseminated by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the interpretive statement. Notice of an amended or withdrawn statement must be disseminated in a substantially similar manner as the affected statement was originally disseminated.

Sec. 15.4042. ISSUANCE OF OPINION. (a) In response to a specific request from a member of the public or the credit union industry, the commissioner may issue an opinion directly or through the deputy commissioner or a department attorney.

(b) If the commissioner determines that the opinion is useful for the general guidance of the public or credit unions, the commissioner may disseminate the opinion by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the opinion. A published opinion must be redacted to preserve the confidentiality of the requesting party unless the requesting party consents to be identified in the published opinion.

(c) The commissioner may amend or repeal a published opinion by issuing an amended opinion or notice of repeal of an opinion and disseminating the opinion or notice in a substantially similar manner as the affected opinion was originally disseminated. The requesting party may rely on the original opinion if:

(1) all material facts were originally disclosed to the commissioner;
(2) the safety and soundness of the affected credit union will not be endangered by further reliance on the original opinion; and

(3) the text and interpretation of relevant governing provisions of this chapter or Subtitle D, Title 3, have not been changed by legislative or judicial action.

Sec. 15.4043. EFFECT OF INTERPRETIVE STATEMENT OR OPINION. An interpretive statement or opinion issued under this subchapter does not have the force of law and is not a rule for the purposes of Chapter 2001, Government Code, unless adopted by the commission as provided by Chapter 2001, Government Code. An interpretive statement or opinion is an administrative construction of this chapter or Subtitle D, Title 3, may be relied on by credit unions authorized to engage in business in this state, and is entitled to great weight if the construction is reasonable and does not conflict with this chapter or Subtitle D, Title 3.

Sec. 15.413. GIFTS OF MONEY OR PROPERTY. The department may accept money or property by gift, bequest, devise, or otherwise for any department purpose authorized by this chapter and Subtitle D, Title 3. A gift, bequest, or devise shall be used for the purposes specified by the grantor. The commission must approve acceptance and use of any gift, bequest, or devise under this section.

Sec. 15.414. AUTHORITY TO CONTRACT FOR PROFESSIONAL OR PERSONAL SERVICES. For the purpose of carrying out the powers, duties, and responsibilities of the department, the commissioner may negotiate, contract, or enter into an agreement for professional or personal services. The commission by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts under this section.

SECTION 6. Section 121.002, Finance Code, is amended by adding Subdivisions (9)-(12) to read as follows:

(9) "Membership share" means a designated share account of a credit union consisting of the balance held by the credit union and established by a credit union member in accordance with the standards specified by the credit union.

(10) "Organization" means a corporation, partnership, association, limited liability company, or other legal entity.

(11) "Unsafe or unsound condition," with respect to a credit union, includes:

(A) being insolvent;
(B) having incurred or being likely to incur a loss that will deplete all or substantially all of the credit union's net worth; or

(C) being in imminent danger of losing the credit union's share and deposit insurance or guarantee.

(12) "Unsafe or unsound practice" means an action or inaction in the operation of a credit union that is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal and material risk of loss or danger to a credit union, the credit union's members, or an organization insuring or guaranteeing the credit union's shares and deposits.

SECTION 7. Section 121.006(a), Finance Code, is amended to read as follows:

(a) If the commissioner [~~commission~~] proposes to [~~suspend or~~] revoke a credit union's certificate of incorporation, the credit union is entitled to a hearing conducted by the State Office of Administrative Hearings.

SECTION 8. Section 122.001(c), Finance Code, is amended to read as follows:

(c) The application must contain:

(1) two copies of the articles of incorporation, which must state:

(A) the name of the credit union;

(B) the municipality and county where the credit union's principal place of business is to be located;

(C) that the credit union's term of existence is perpetual;

(D) that the credit union's fiscal year is the calendar year;

(E) the initial share accounts;

(F) the name and address of, and the number of shares subscribed by, each incorporator;

(G) the number of directors constituting the initial board and the name and address of each person who will serve as director until the first annual meeting or until a successor is elected and qualified; and

(H) the definable community of interest shared by the members of the credit union at the time of incorporation; [~~and~~]

(2) two copies of the standard bylaws for the general operation of the credit union; and

(3) a business plan covering three years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union.

SECTION 9. Section 122.003(a), Finance Code, is amended to read as follows:

(a) The name of a credit union must include the words "credit union" or the abbreviation "CU" and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner.

SECTION 10. Sections 122.006(a)-(c), Finance Code, are amended to read as follows:

(a) The commissioner shall approve an application to incorporate a credit union if the commissioner determines:

(1) that the incorporators have complied with this chapter and rules adopted under this chapter; and

(2) ~~[the commissioner finds,]~~ from information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and information in the department's official records, that:

(A) the character and general fitness of the incorporators and the members of the initial board warrant belief that the credit union's business and affairs will be properly administered in accordance with this subtitle and rules adopted under this subtitle;

(B) the character and size of the field of membership to be served by the credit union conform with this subtitle and rules adopted under this subtitle and favor the credit union's economic viability; and

(C) the incorporators and the members of the initial board are acting in good faith and are making the application in accordance with the purposes of this subtitle.

(b) In addition to the determinations made ~~[findings]~~ under Subsection (a) and in accordance with commission rules, the commissioner shall consider the effect of overlapping fields of membership on the applicant credit union and existing state or federal credit unions doing business in this state. The commissioner may consider the availability and adequacy of financial services in the local community and the effect that the incorporation of the credit union would have on the local community. As a condition of approval of the application, the commissioner may require the applicant credit union to limit or eliminate overlaps, in accordance with the rules, to achieve the purposes of this subtitle and promote the welfare and stability of those credit unions.

(c) The commissioner by written order shall state the determinations ~~[findings]~~ required by Subsection (a) and approve or deny the application. The commissioner may make approval of an application conditional and shall include any conditions in the order approving the application.

SECTION 11. Sections 122.011(a) and (b), Finance Code, are amended to read as follows:

(a) The board may amend the articles of incorporation or bylaws by a two-thirds vote of the directors present at a meeting at which a quorum is present. The board ~~[and]~~ shall submit amendments to the commissioner.

(b) Unless the amendment is a standard bylaw adopted by the commission, the ~~[The]~~ commissioner in writing shall approve or disapprove an amendment.

SECTION 12. Section 122.013, Finance Code, is amended by amending Subsection (c) and adding Subsections (e) and (f) to read as follows:

(c) The commissioner may suspend or revoke a foreign credit union's authority to do business in this state if the commissioner finds that the foreign credit union:

(1) has violated a rule adopted under this subtitle;

(2) is in an unsafe or unsound condition;

(3) is engaged in a pattern of unsafe or unsound practices; or

(4) does not meet a commission requirement.

(e) A foreign credit union from a jurisdiction that allows a credit union to exercise additional powers and authorities not granted in this state may not exercise any of those powers or authorities in this state until the foreign credit

union requests and obtains permission from the commissioner to exercise those powers or authorities. If the commissioner determines that there are no safety and soundness concerns, the commissioner shall approve the request and shall publish the powers or authorities granted in the manner authorized by Section 15.4041 or 15.4042 for the issuance of an interpretive statement or an opinion. When approved, those powers or authorities shall be available to all credit unions authorized to engage in business under this subtitle.

(f) A foreign credit union may not use this section to alter or negate the application to the credit union of any law of this state regarding:

(1) permissible interest rates;

(2) loan fees; or

(3) licensing or regulatory requirements that relate to insurance, securities, marketing or sales activities, or real estate development and that are administered by an agency of this state.

SECTION 13. Subchapter A, Chapter 122, Finance Code, is amended by adding Section 122.014 to read as follows:

Sec. 122.014. UNDERSERVED-AREA CREDIT UNION. (a) In this section, "secondary capital account" means a nontransactional account in an amount greater than \$100,000 as established by the commission that is:

(1) owned by a person other than an individual; and

(2) subordinated to other creditors.

(b) A credit union may apply to the commissioner for the designation of the credit union as an underserved-area credit union.

(c) The commissioner may designate a credit union as an underserved-area credit union only if:

(1) at least 50 percent of a substantial and well-defined segment of the credit union's members or potential members who are at least 15 years of age earn not more than 80 percent of the state or national household median income, whichever is higher;

(2) the credit union submits an acceptable written strategic plan for marketing to and serving the segment described by Subdivision (1); and

(3) the credit union submits other information and satisfies other criteria as may reasonably be required by the commissioner.

(d) In addition to the powers and authorities granted to credit unions under this subtitle or otherwise, an underserved-area credit union may:

(1) issue secondary capital accounts to members or nonmembers of the credit union on the filing of an application with and the advance approval of the commissioner; and

(2) accept shares and deposits from nonmembers.

(e) The commission may adopt rules for the organization and operation of underserved-area credit unions, including rules requiring disclosures to purchasers of secondary capital accounts and other rules concerning those accounts.

SECTION 14. Section 122.051, Finance Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) In this subsection, "good cause" includes the act of physically or verbally abusing a credit union member or employee. A person's membership in a credit union may be terminated or suspended [member may be expelled] for good cause or for not maintaining membership requirements, under the conditions and in accordance with the procedures provided in [by] the bylaws. A credit union may also discontinue providing any or all services to a member for good cause without terminating or suspending the person's membership. Termination or suspension of a person's membership in the credit union or discontinuing services does not relieve the person from any outstanding obligations owed to the credit union.

(e) Two or more persons within the credit union's field of membership who have jointly subscribed for one or more share or deposit accounts under a joint account and who have complied with all membership requirements may each be admitted to membership.

(f) A credit union authorized to engage in business under this subtitle may accept as a member any other credit union organized or chartered under the laws of this or another state or of the United States. Those credit union members are not entitled to any voting privileges.

SECTION 15. Section 122.052, Finance Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) The board may authorize voting by mail or by electronic means. Mail and electronic balloting shall be conducted in accordance with commission rules.

(d) A member that is not an organization may not vote by proxy. A member that is an organization may be represented by and vote through a designated representative [one of its members or shareholders] who is authorized, in writing, by the organization's governing body to represent the organization.

(e) The credit union's bylaws may establish a minimum age requirement to vote.

SECTION 16. Section 122.053, Finance Code, is amended by amending Subsections (b) and (c) and adding Subsections (e) and (f) to read as follows:

(b) The membership of the credit union shall elect the board at an annual membership meeting, from the membership, and in the manner provided by the bylaws. A board member shall hold office until a successor is qualified and elected or appointed.

(c) A director shall take and subscribe to an oath or affirmation that the director:

(1) will diligently and honestly perform the director's duties in administering the credit union's affairs;

(2) although the director may delegate the performance of those duties, remains responsible for the performance of the duties; ~~and~~

(3) will not knowingly violate or willingly permit the violation of an applicable law; and

(4) will exercise the care and diligence reasonable and necessary to administer the affairs of the credit union in a safe and sound manner.

(e) The board shall meet at least once each month.

(f) If and to the extent provided in the bylaws, a director may participate in and act at any meeting of the board by means of electronic communications equipment through which all persons participating in the meeting can communicate with each other. Participation in a meeting in the manner authorized by this subsection constitutes attendance at a meeting.

SECTION 17. Section 122.054, Finance Code, is amended to read as follows:

Sec. 122.054. QUALIFICATION OF DIRECTORS. (a) The commission by rule shall establish qualifications for a director. The rules must provide that a person may not serve as director if the person:

(1) has been convicted of a criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage under the blanket bond required by Section 122.063 and rules adopted under this subtitle; or

(3) has defaulted on payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss.

(b) The president or an employee of a credit union may not serve as director of the credit union unless permitted by the credit union's bylaws. If the bylaws permit the president or an employee to serve on the board, the bylaws must require that persons serve on the board so that the president and employees of the credit union never constitute a majority of the board.

SECTION 18. Section 122.055(a), Finance Code, is amended to read as follows:

(a) The office of a director becomes vacant if the director dies, resigns, is removed, has been absent from more meetings than the total number of absences permitted by commission rule, or does not possess or maintain the qualifications required to serve on the board.

SECTION 19. Section 122.057, Finance Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) At the annual organizational meeting, the [The] board shall elect from its membership a chairman, vice chairman, treasurer, and secretary. The offices of treasurer and secretary may be held by the same individual.

(c) The board may appoint from its membership an executive committee of at least three persons to exercise, between board meetings, authority specifically delegated by the board under conditions specified by the board. At each board meeting, the executive committee shall report to the board regarding any meeting held or action taken by the committee between board meetings.

(d) The bylaws may establish a minimum age requirement to hold office in the credit union.

SECTION 20. Section 122.059, Finance Code, is amended to read as follows:

Sec. 122.059. DELEGATION OF MANAGEMENT AND LOAN APPROVAL AUTHORITY. (a) Without written approval of the commissioner, a credit union may not:

(1) contract with an individual who is not an officer, director, or employee of the credit union or with an organization for the provision of the management of the credit union; or

(2) delegate to an individual who is not an officer, director, or employee of the credit union or to an organization the authority to manage the credit union.

(b) The board may delegate all or part of its power to approve or disapprove a loan to a credit committee, one or more other committees, or one or more individuals.

SECTION 21. Section 122.060, Finance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The board chairman and the secretary:

(1) shall execute a certificate of election that states the name and address of each officer, director, and committee member elected or appointed; and

(2) not later than the 30th day after the date of the annual organizational meeting of election or appointment of any interim officer, director, or committee member, shall file a copy of the certificate of election with the department.

(c) The commissioner may accept a form prescribed by an insuring organization that contains substantially similar information as the certificate of election in lieu of the certificate. The acceptance of such a form does not limit the commissioner's power to require additional information concerning a newly elected or appointed officer, director, or committee member.

SECTION 22. Section 122.101(a), Finance Code, is amended to read as follows:

(a) A credit union shall submit to the department on a quarterly [~~semiannual~~] basis a call report, on a form supplied by the department, that states the credit union's financial condition. The commissioner may require a credit union to file additional financial [~~call~~] reports.

SECTION 23. Section 122.103, Finance Code, is amended to read as follows:

Sec. 122.103. EQUITY CAPITAL. A credit union's equity capital consists of:

(1) retained earnings [~~the aggregate amount of the share accounts of its members~~];

(2) appropriated retained earnings, including net worth and other [~~all its~~] reserves; [~~and~~]

(3) [~~all its~~] undivided earnings; and

(4) other forms of capital in accordance with generally accepted accounting principles and approved by the commissioner.

SECTION 24. Section 122.104, Finance Code, is amended to read as follows:

Sec. 122.104. NET WORTH RESERVE ALLOCATIONS. (a) The commission by rule shall require a credit union to contribute to and maintain net worth reserves necessary to protect the interests of its members. The rule may:

(1) prescribe the purposes for which the net worth reserves may be used; and

(2) authorize the commissioner to approve other uses.

(b) The credit union's board may establish reserves in addition to the required net worth reserves.

SECTION 25. The heading to Section 122.105, Finance Code, is amended to read as follows:

Sec. 122.105. MEMBERSHIP SHARE REDUCTION.

SECTION 26. Section 122.152(a), Finance Code, is amended to read as follows:

(a) After agreement by the directors and approval by the members, if applicable, of each credit union or federal credit union, the chairman [~~president~~] and secretary of each credit union or federal credit union shall execute a certificate of merger or consolidation that:

(1) includes a copy of the resolution or other action by which the board agreed to the merger or consolidation plan; and

(2) states:

(A) the time and place of the board meeting at which the board agreed to the merger or consolidation plan;

(B) the board's vote for and against adoption of the plan;

(C) the time and place of the meeting at which the members approved the plan, if applicable;

(D) the membership's vote for and against approval of the plan, if applicable; and

(E) the name of the surviving credit union.

SECTION 27. The heading to Section 122.255, Finance Code, is amended to read as follows:

Sec. 122.255. DETERMINATION OF MISCONDUCT [~~BY COMMISSIONER~~].

SECTION 28. Section 122.256, Finance Code, is amended to read as follows:

Sec. 122.256. DETERMINATION [~~DEMAND~~] LETTER; BOARD MEETING. (a) If the commissioner determines from examination or other credible evidence that a credit union is in a condition that may warrant the issuance of an order under this chapter or Chapter 126 [~~makes a finding listed in Section 122.255~~], the commissioner may notify [~~shall issue a demand letter giving written notice to~~] the credit union in writing of the commissioner's determination, the requirements the credit union must satisfy to abate the determination, and the time by which the requirements must be satisfied to avert further administrative action. The determination letter must be delivered in person or sent by registered or certified mail, return receipt requested [~~and each offending person and stating each violation or practice found~~].

(b) If considered necessary, the [~~The~~] commissioner may [~~promptly shall~~] call a meeting of the credit union's board. The directors shall attend the meeting. The commissioner shall present to the board the findings stated in the determination [~~demand~~] letter and shall demand the discontinuance of any violation or unsafe or unsound practice found.

SECTION 29. Section 122.257(a), Finance Code, is amended to read as follows:

(a) If the commissioner makes a finding listed in Section 122.255 and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, the commissioner may serve on the credit union, its board, and each offending person an order to cease and desist from a violation or practice specified in the order and to take affirmative action that the commissioner considers necessary to correct a condition resulting from a violation or unsafe or unsound practice found.

SECTION 30. Sections 122.258(a) and (c), Finance Code, are amended to read as follows:

(a) The commissioner by order may remove or prohibit a person who is a current or former officer, director, manager, or employee of a credit union from office, ~~or~~ employment, or further participation in the affairs of a credit union if the commissioner by examination or other credible evidence:

(1) finds that:

(A) the person has continued a violation or practice previously charged and found by the commissioner after issuance of a determination letter [notice and demand] under Section 122.256 or a cease and desist order under Section 122.257; and

(B) removal or prohibition is necessary and in the best interest of the credit union and its depositors, creditors, and members; or

(2) makes a finding listed in Section 122.255 and determines that removal or prohibition of the person is immediately necessary because the person has committed or is about to commit:

(A) a fraudulent or criminal act involving the conduct of the business of the credit union;

(B) an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency; or

(C) an act that otherwise threatens immediate and irreparable harm to the public or the credit union or its members, depositors, or creditors.

(c) On issuance of the order, the person has no right, duty, or authority of office or employment in the credit union. After the order becomes final, the person removed or prohibited may not hold office in, be employed by, or participate in the affairs of any [the] credit union without the prior written approval of the commissioner. The order is final as of the date of issuance unless the person removed or prohibited or the credit union, as evidenced by a certified copy of the board resolution, files written notice of appeal with the commissioner not later than the 10th day after the day the removal order is served.

SECTION 31. Section 122.260, Finance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County. In the suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of:

(1) the imposition of the penalty or the delinquency of the stated penalty amount; and

(2) compliance by the department with the law relating to the computation and imposition of the penalty.

(d) The attorney general is entitled to recover reasonable attorney's fees from the credit union or the designated person, or both, if the attorney general prevails in a judicial action necessary for collection of the administrative penalty.

SECTION 32. Section 122.261, Finance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A determination letter, a cease and desist order, a removal order, [and] each copy of a notice or [s] correspondence, and all [of] other documents or records [record] relating to an order or determination letter issued under this subchapter [concerning a violation or unsound practice] are confidential and are not subject to public disclosure except in an action authorized by this subtitle or other authority.

(c) The commissioner may release information regarding the existence of a final order to the public if the commissioner concludes that the release would enhance effective enforcement of the order.

SECTION 33. Section 123.003, Finance Code, is amended to read as follows:

Sec. 123.003. ENLARGEMENT OF POWERS. (a) A credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment it could make, if it were operating as a federal credit union.

(b) Notwithstanding any other law, and in addition to the powers and authorities conferred under Subsection (a), a credit union has the powers or authorities of a foreign credit union operating a branch in this state if the commissioner finds that exercise of those powers or authorities is convenient for and affords an advantage to the credit union's members and maintains the fairness of competition and parity between the credit union and any foreign credit union. A credit union does not have the field of membership powers or authorities of a foreign credit union operating a branch in this state.

SECTION 34. Section 123.106, Finance Code, is amended to read as follows:

Sec. 123.106. CHANGE OF LOCATION. A [On written notice to the commissioner, a] credit union may change its principal place of business or a subsidiary place of business to another location by notifying the commissioner in writing of the new address and the effective date of the change [in this state].

SECTION 35. Subchapter B, Chapter 123, Finance Code, is amended by adding Section 123.111 to read as follows:

Sec. 123.111. RIGHT TO ACT TO MITIGATE OR AVOID LOSS. This subtitle does not prohibit a credit union from investing its money, operating a business, managing or dealing in property, or taking any other action at any time that is reasonably necessary to avoid or mitigate a loss on a loan or on an

investment made or obligation created in good faith and in the usual course of the credit union's business, as authorized by this subtitle or a rule adopted by the commission.

SECTION 36. Subchapter C, Chapter 123, Finance Code, is amended by adding Section 123.211 to read as follows:

Sec. 123.211. CERTIFICATES OF INDEBTEDNESS. The commission by rule may authorize a credit union to issue certificates of indebtedness that are subordinated to all other claims of credit union creditors.

SECTION 37. Subchapter C, Chapter 123, Finance Code, is amended by adding Section 123.212 to read as follows:

Sec. 123.212. CHECK AND MONEY TRANSFER SERVICES. A credit union may sell to a person within its field of membership negotiable checks, money orders, and other similar money transfer instruments or services and may also cash checks and money orders for a person within its field of membership for a fee.

SECTION 38. Section 124.201, Finance Code, is amended to read as follows:

Sec. 124.201. AUTHORIZATION. Only if done in accordance with limitations imposed by ~~[Subject to]~~ Section 124.202, a credit union may make a loan or extend a line of credit to:

(1) a director, senior management employee, or member of the credit committee; or

(2) the immediate family of the director, senior management employee, or member of the credit committee.

SECTION 39. Section 124.203, Finance Code, is amended to read as follows:

Sec. 124.203. AUTHORIZATION TO ACT AS COMAKER, GUARANTOR, OR ENDORSER. A ~~[Subject to Section 124.204, a]~~ credit union may permit a director, senior management employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member only in accordance with limitations imposed by Section 124.204.

SECTION 40. Section 124.204, Finance Code, is amended to read as follows:

Sec. 124.204. PRIOR APPROVAL REQUIRED. The board must give its approval before the credit union permits a director, senior management employee, or member of the credit committee to act as comaker, guarantor, or endorser of a loan to a member if the amount of the loan or aggregate of outstanding loans to the comaker, guarantor, or endorser is greater than the sum of:

(1) \$10,000 or a higher amount established by commission rule; and

(2) the amount of the shares and deposits pledged for the loan.

SECTION 41. Section 125.002, Finance Code, is amended to read as follows:

Sec. 125.002. SHARE ACCOUNT. (a) Shares and membership shares shall be subscribed to and paid for in the manner prescribed by the bylaws. A credit union may limit the number of shares that may be owned by a member, but any such limitation must be applied equally to all members.

(b) A credit union may require credit union members to subscribe to and make [A share account consists of] payments on [a member's shares, including] membership shares. Membership shares may not be pledged as security on any loan.

(c) The board of directors may establish [The shares may be: (1) of] different [types of] classes of share accounts classified in relation to different rights, restrictions, [and (2) with or without] par value, and dividend rates.

(d) A joint account may hold more than one membership share, supporting membership for more than one member of the credit union [as determined by the board].

SECTION 42. Section 125.003, Finance Code, is amended to read as follows:

Sec. 125.003. DEPOSIT ACCOUNT. A deposit account consists of payments made under an agreement between the credit union and a depositor, including a draft account, checking account, savings account, certificate of deposit, individual development account, or other similar account or arrangement.

SECTION 43. Subchapter D, Chapter 125, Finance Code, is amended by adding Section 125.309 to read as follows:

Sec. 125.309. TRUST ACCOUNT WITH LIMITED DOCUMENTATION.

(a) For a trust account that is purported to be opened under a written trust agreement, the trustee may provide the credit union with a certificate of trust to evidence the trust relationship. The certificate must be an affidavit of the trustee and must include:

- (1) the effective date of the trust;
- (2) the name of the trustee;
- (3) the name of or method for choosing a successor trustee;
- (4) the name and address of each beneficiary;
- (5) the authority granted to the trustee;
- (6) the information needed for disposition of the trust account on the death of the trustee or the last survivor of two or more trustees;
- (7) an indemnification of the credit union; and
- (8) any other information required by the credit union.

(b) The credit union may accept and administer the trust account, in accordance with the certificate of trust, without requiring a copy of the trust agreement. The credit union is not liable for administering the account as provided by the certificate of trust, unless the credit union has actual knowledge that the certificate of trust is contrary to the terms of the trust agreement.

(c) On the death of the trustee or the last survivor of two or more trustees and notwithstanding Section 125.308, the credit union may pay all or part of the proceeds of the trust account as provided by the certificate of trust. If the trustee did not provide a certificate of trust, the credit union's right to treat the account as owned by a trustee ceases on the death of the trustee. On the death of the trustee or the last survivor of two or more trustees, the credit union, unless the certificate of trust provides otherwise, shall pay the proceeds of the account in equal shares

to each person who survives the trustee, is named as a beneficiary in the certificate of trust, and can be located by the credit union from the credit union's records. If there is no certificate of trust, payment of the proceeds of an account shall be made as provided by Section 125.308. Payment made under this section for all or part of the proceeds of an account discharges any liability of the credit union to the extent of the payment. The credit union may pay all or part of the proceeds of an account in the manner provided by this section, regardless of whether it has knowledge of a competing claim, unless the credit union receives actual knowledge that payment has been restrained by court order.

(d) This section does not require a credit union to accept an account from a trustee or to search for the location of a named beneficiary that is not named in its records.

(e) This section does not affect a contractual provision to the contrary that otherwise complies with the laws of this state.

(f) For purposes of this section, "actual knowledge" is presumed if a credit union possesses a copy of a trust agreement that is certified as to authenticity by a settlor, trustee, beneficiary, or an attorney for the settlor, trustee, or beneficiary.

SECTION 44. Section 125.401, Finance Code, is amended to read as follows:

Sec. 125.401. THIRD-PARTY CLAIM. (a) In this section:

(1) "Credit union" includes:

(A) a credit union organized under the laws of this state;

(B) a foreign credit union; and

(C) a federal credit union.

(2) "Out-of-state credit union" means a credit union that:

(A) is not organized under the laws of this state; and

(B) has its main or principal office in another state or country.

(3) "Texas credit union" means a credit union that:

(A) is organized under the laws of this state or federal law; and

(B) has its main or principal office in this state.

(b) A credit union [~~or federal credit union~~] doing business in this state must be served with citation or other appropriate process issued from a court in connection with a suit instituted by a third party to recover or establish an interest in a deposit or share account before the credit union [~~or federal credit union~~] is required to:

(1) recognize the third party's claim;

(2) withhold payment of the account to any party to the account; or

(3) withhold payment to the order of any party to the account.

(c) A claim against a depositor, joint account owner, or member of a credit union shall be delivered or otherwise served as required or permitted by law at the address of the registered agent of the credit union as designated in a registration filed under Section 201.102 or 201.103, as applicable.

(d) A claim against a depositor, joint account owner, or member of an out-of-state credit union that files a registration statement under Section 201.102 or a Texas credit union that files a registration statement under Section 201.103 is

not effective with respect to the credit union if the claim is served or delivered to an address other than the address of the credit union's registered agent as provided in the registration.

(e) To prevent or limit a credit union's compliance with or response to a claim subject to this section, the depositor, joint account owner, or member must seek an appropriate remedy, including a restraining order, injunction, or protective order, to prevent or suspend the credit union's response to a claim against the depositor, joint account owner, or member.

(f) A credit union that does not register with the secretary of state under Section 201.102 or 201.103 is subject to service or delivery of all claims against depositors, joint account owners, or members of the credit union or against the credit union itself by serving the president or vice president of the credit union or as otherwise provided by law.

SECTION 45. Section 126.002, Finance Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning ~~[that relates to]~~ the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the commission, and a member of the commission may not be given access to the files or records of the department, except that the ~~[The]~~ commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

(e) Confidential information that is provided by the department to a credit union, organization, or service provider of a credit union, whether in the form of a report of examination or otherwise, is the confidential property of the department. The recipient or an officer, director, employee, or agent of the recipient may not make the information public and may not disclose the information to a person not officially connected to the recipient as an officer, director, employee, attorney, auditor, or independent auditor, except as authorized by rules adopted under this subtitle.

(f) Discovery of confidential information from a person subject to this subtitle or Chapter 15 under subpoena or other legal process must comply with rules adopted under this subtitle, Chapter 15, and any other applicable law. The rules may:

(1) restrict release of confidential information to the portion directly relevant to the legal dispute at issue; and

(2) require that a protective order, in a form and under circumstances specified by the rules, be issued by a court before release of the confidential information.

SECTION 46. Section 126.051, Finance Code, is amended to read as follows:

Sec. 126.051. EXAMINATIONS. (a) The department, through examiners it appoints and in accordance with commission rules, shall periodically examine the books and records of each credit union.

(b) In lieu of an examination under this section, the commissioner may accept:

(1) the examination report of a regulator authorized to examine a credit union, foreign credit union, federal credit union, or other financial institution; or

(2) the audit report of an accountant, satisfactory to the commissioner, who has made and submitted a report of the condition of the affairs of a credit union, foreign credit union, federal credit union, or other financial institution.

(c) The commissioner may accept all or part of a report in lieu of all or part of an examination. An accepted part of the report has the same validity as an examination under this section.

SECTION 47. Section 126.053, Finance Code, is amended to read as follows:

Sec. 126.053. WITNESSES; PRODUCTION OF DOCUMENTS. (a) In an examination conducted under this subchapter, the commissioner or the commissioner's designee [an examiner] may:

(1) subpoena [summon] witnesses;

(2) administer an oath or affirmation to a person, including any [an] officer, director, agent, or employee of a credit union, and examine the person under oath or affirmation on any subject the commissioner considers pertinent to the financial condition or the safety and soundness of the activities of a credit union; or

(3) require and compel by subpoena [court order] the production of documents that are not voluntarily produced, including books, papers, securities, and records.

(b) The commissioner may apply to a district court in Travis County for an order requiring a person to obey a subpoena, to appear, or to answer questions in connection with the examination or investigation.

(c) The court shall issue an order under Subsection (b) if the court finds good cause to issue the subpoena or to take testimony.

SECTION 48. Section 126.108, Finance Code, is amended to read as follows:

Sec. 126.108. CONFIDENTIALITY; DISCLOSURE. A conservatorship order and a copy of a notice, ~~or~~ correspondence, transcript, pleading, or other document relating to the order are [is] confidential and may be disclosed only in a related legal proceeding or as otherwise authorized by law. The commissioner may release to the public information regarding the existence of an order if the commissioner concludes that release of the information would enhance effective enforcement of the order.

SECTION 49. Section 126.159, Finance Code, is amended to read as follows:

Sec. 126.159. COST OF CONSERVATORSHIP. (a) The commissioner shall determine and approve any reasonable expenses attributable to the service of a conservator, including costs incurred by the department and the

compensation and expenses of the conservator and any professional employees appointed to represent or assist the conservator. The commissioner or an employee of the department may not receive compensation in addition to salary for serving as conservator, but the department may receive reimbursement for the fully allocated personnel cost associated with the service of the commissioner or the employee as conservator [the cost of the conservatorship].

(b) All approved expenses [The cost of conservatorship] shall be paid by [from] the credit union [union's assets as the commissioner directs]. The department has a lien against the assets and money of the credit union to secure payment of approved expenses. The lien has a higher priority than any other lien against the credit union.

(c) Notwithstanding this subchapter, the credit union may retain attorneys and hire other persons to assist the credit union in contesting or satisfying the requirements of an order of conservatorship. The commissioner shall authorize the payment of reasonable fees and expenses for the attorneys and other persons as expenses of the conservatorship.

(d) The commissioner may waive or defer collection of assessment or examination fees by the department from the credit union during a period of conservatorship if the waiver or deferral would appear to benefit the prospects for rehabilitation. As a condition of release from conservatorship, the commissioner may require the rehabilitated credit union to pay or develop a reasonable plan for payment of any deferred fees.

SECTION 50. Section 126.160(a), Finance Code, is amended to read as follows:

(a) A suit filed against a credit union [or its conservator] while the credit union is under [a] conservatorship, or against a person in connection with an action taken or decision made by that person as a conservator of a credit union, [order is in effect] must be brought in Travis County regardless of whether the credit union remains under conservatorship.

SECTION 51. Subchapter E, Chapter 126, Finance Code, is amended by adding Section 126.206 to read as follows:

Sec. 126.206. NATIONAL CREDIT UNION ADMINISTRATION AS LIQUIDATING AGENT. (a) The commissioner may tender a credit union that has been closed for liquidation to the National Credit Union Administration or its successor as liquidating agent if the shares and deposits of the credit union were insured by the National Credit Union Share Insurance Fund or its successor on the date of closing.

(b) After acceptance of tender of the credit union, the National Credit Union Administration or its successor, as liquidating agent of the credit union, shall perform the acts and duties that it considers necessary or desirable and that are permitted or required by federal law or this chapter. The National Credit Union Administration, as liquidating agent, is not subject to commission control.

(c) If the National Credit Union Share Insurance Fund pays the insured share and deposit liabilities of a credit union that is being liquidated under this subchapter, the National Credit Union Administration is subrogated, to the extent of the payment, to all rights that the owners of the share or deposit accounts have against the credit union.

SECTION 52. Section 126.454, Finance Code, is amended to read as follows:

Sec. 126.454. CREDIT UNION OPERATIONS BEFORE AND AFTER VOTE. Immediately after notice under Section 126.453 is mailed, the commissioner may restrict control or give direction with respect to the continued business of the credit union pending consideration of voluntary liquidation by the members. During that period, no member shall withdraw an aggregate amount in excess of the share insurance covered by ~~[shall cease to operate except to accept loan payments or other obligations due]~~ the credit union. No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending voluntary liquidation and the membership meeting called to consider voluntary liquidation, except for the issuance of loans fully secured by a pledge of shares and the funding of outstanding loan commitments approved before adoption of the resolution. If the vote to dissolve and liquidate the credit union is affirmative, the credit union may conduct only business incidental to liquidation.

SECTION 53. Section 126.455, Finance Code, is amended to read as follows:

Sec. 126.455. VOTE ON VOLUNTARY LIQUIDATION. At a special meeting called to consider the proposed liquidation, a majority of the credit union members, but not less than a quorum, may vote to dissolve and liquidate the credit union. Those members casting votes by mail or at the meeting constitute a quorum for the transaction of business at the special meeting, notwithstanding a bylaw provision to the contrary.

SECTION 54. Section 126.457, Finance Code, is amended to read as follows:

Sec. 126.457. APPOINTMENT OF LIQUIDATING AGENT. (a) If the members approve the liquidation, the board shall appoint a liquidating agent to:

- (1) conserve and collect the credit union's assets;
- (2) wind up the credit union's affairs;
- (3) discharge the credit union's debts;
- (4) distribute the credit union's assets; and
- (5) take any other action necessary and incidental to liquidating the credit union.

(b) The National Credit Union Administration or other insuring organization has the right of first refusal to be appointed as liquidating agent of any credit union that it insures.

SECTION 55. Subchapter J, Chapter 126, Finance Code, is amended by adding Section 126.458 to read as follows:

Sec. 126.458. APPLICATION OF LAW TO CREDIT UNION IN VOLUNTARY LIQUIDATION. A credit union in the process of voluntary dissolution and liquidation remains subject to this subtitle and Chapter 15, including provisions for examination by the commissioner, and the credit union shall furnish reports as required by the commissioner.

SECTION 56. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act by the amendment of Section 125.401, Finance Code, applies only to a claim that arises on or after the effective date of this Act. A claim that arose before the effective date of this Act is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

CSSB 282 - (consideration continued)

Amendment No. 3

Representative Wise offered the following amendment to Amendment No. 2:

Amend the Miller amendment to **CSSB 282** by striking the text of the amendment and substituting the following:

SECTION _____. Section 1301.052, Occupations Code, is amended to read as follows:

Sec. 1301.052. WORK INSIDE OR OUTSIDE MUNICIPALITIES. A person is not required to be licensed under this chapter to perform plumbing, other than plumbing performed in conjunction with new construction, on a property that is:

(1) located in a subdivision or on a tract of land that is not required to be platted under Section 232.0015, Local Government Code; or

(2) not connected to a public water system and is located] outside a municipality; or

(3) inside a municipality with fewer than 5,000 inhabitants, unless an ordinance of the municipality requires the person to be licensed.

SECTION _____. In accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1301.052, Occupations Code, as set out in Section ____ of this Act, gives effect to changes made by Chapter 791, Acts of the 77th Legislature, Regular Session, 2001.

Amendment No. 3 was adopted without objection.

Amendment No. 2, as amended, was adopted without objection.

CSSB 282, as amended, was passed to third reading.

CSSB 14 ON SECOND READING

(Smithee, Seaman, Eiland, Bonnen, Gallego, et al. - House Sponsors)

CSSB 14, A bill to be entitled An Act relating to the regulation of residential property and commercial and personal automobile insurance; providing a criminal penalty.

CSSB 14 was read second time on May 21, amended, and was postponed until 9 a.m. today.

Amendment No. 18

Representatives Geren, Wolens, and Wise offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 6, line 15, between "ethnicity," and "or" insert "income,".
- (2) On page 8, line 22, between "ethnicity," and "or" insert "income,".
- (3) On page 27, line 17, after the comma, add ", including factors based on income".
- (4) On page 35, line 7, between "race," and "or" insert "income,".
- (5) On page 35, line 7, between "religion," and "ethnicity" insert "income,".
- (6) On page 60, line 20, between "ethnicity," and "or" insert "income,".
- (7) On page 60, line 24, between "ethnicity," and "or" insert "income,".
- (8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7._____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, income (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on income.

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on income or the fact that the policyholder in question is an elected official.

(Isett in the chair)

Representative Smithee moved to table Amendment No. 18.

(Heflin now present)

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 18 and the vote was announced yeas 70, nays 69.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 650): 69 Yeas, 67 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hill; Homer; Hope; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; Mercer; Miller; Morrison; Mowery; Nixon; Paxton; Reyna; Seaman; Smithee; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Campbell; Canales; Castro; Coleman; Cook, R.; Davis, Y.; Delisi; Deshotel; Dunnam; Edwards; Ellis; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hamilton; Hardcastle; Hilderbran; Hochberg; Hodge; Hopson; Jones, J.; Laney; Lewis; Mabry; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solis; Solomons; Thompson; Uresti; Villarreal; West; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Isett(C).

Absent, Excused — Telford.

Absent, Excused, Committee Meeting — Luna; Pitts; Turner; Wohlgemuth.

Absent — Capelo; Chavez; Dukes; Dutton; Heflin; Howard; Riddle.

The chair stated that the motion to table prevailed by the above vote.

STATEMENT OF VOTE

When Record No. 650 was taken, I was excused to attend a conference committee meeting on **HB 1**. Had I been present I would have voted no.

Turner

(Turner now present)

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business with constituents:

Chavez on motion of Keel.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Dukes on motion of Hodge.

CSSB 14 - (consideration continued)

Amendment No. 19

Representative Alonzo offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 15, between "ethnicity," and "or" insert "gender,".

(2) On page 8, line 22, between "ethnicity," and "or" insert "gender,".

(3) On page 27, line 17, after the comma, add ", including factors based on gender".

(4) On page 35, line 7, between "race," and "or" insert "gender,".

(5) On page 35, line 7, between "religion," and "ethnicity" insert "gender,".

(6) On page 60, line 20, between "ethnicity," and "or" insert "gender,".

(7) On page 60, line 24, between "ethnicity," and "or" insert "gender,".

(8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7._____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, gender (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on gender.

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on gender or the fact that the policyholder in question is an elected official.

(Wohlgemuth now present)

Representative Smithee moved to table Amendment No. 19.

A record vote was requested.

The motion to table prevailed by (Record 651): 86 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Lewis; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Talton; Taylor; Thompson; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Canales; Castro; Chisum; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Guillen; Gutierrez; Hardcastle; Hochberg; Hodge; Hopson; Jones, J.; Laney; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Swinford; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Isett(C).

Absent, Excused — Chavez; Dukes; Telford.

Absent, Excused, Committee Meeting — Luna; Pitts.

Absent — Bailey; Burnam; Capelo; Riddle; Smithee.

STATEMENT OF VOTE

I was shown voting no on Record No. 651. I intended to vote yes.

Menendez

Amendment No. 20

On behalf of Representatives Geren, Wolens, and Wise, Representative Y. Davis offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 15, between "ethnicity," and "or" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher."

(2) On page 8, line 22, between "ethnicity," and "or" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(3) On page 27, line 17, after the comma, add ", including factors based on the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(4) On page 35, line 7, between "race," and "or" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(5) On page 35, line 7, between "religion," and "ethnicity" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(6) On page 60, line 20, between "ethnicity," and "or" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(7) On page 60, line 24, between "ethnicity," and "or" insert "the fact that the insured or applicant is a fire fighter, a police officer, or a teacher".

(8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7.____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, the fact that the insured or applicant is a fire fighter, a police officer, or a teacher (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4. _____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on the fact that the insured or applicant is a fire fighter, a police officer, or a teacher."

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4. _____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on the fact that the insured or applicant is a fire fighter, a police officer, or a teacher, or the fact that the policyholder in question is an elected official.

Representative Smithee moved to table Amendment No. 20.

A record vote was requested.

The motion to table prevailed by (Record 652): 81 Yeas, 61 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Escobar; Farabee; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Reyna; Ritter; Seaman; Smith, W.; Smithee; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Ellis; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hamilton; Hardcastle; Hochberg; Hodge; Hopson; Jones, J.; Kolkhorst; Laney; Lewis; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Solis; Solomons; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Isett(C).

Absent, Excused — Chavez; Dukes; Telford.

Absent, Excused, Committee Meeting — Luna; Pitts.

Absent — Riddle.

STATEMENTS OF VOTE

When Record No. 652 was taken, I was excused for important business. I would have voted no.

Chavez

I was shown voting yes on Record No. 652. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 652. I intended to vote no.

Kuempel

(Chavez now present)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Licensing and Administrative Procedures, upon lunch recess today, Desk 99, for a formal meeting, to consider **SB 292** and **SB 1387**.

State Affairs, upon lunch recess today, Desk 17, for a formal meeting, to consider pending business.

Civil Practices, upon lunch recess today, Desk 57, for a formal meeting, to consider **HCR 163**, **HCR 209**, **HCR 233**, and **SB 1207**.

FIVE DAY POSTING RULE SUSPENDED

Representative Heflin moved to suspend the five day posting rule to allow the Committee on Appropriations to consider **SB 206**, **SB 1522**, and **SB 1862**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Regulated Industries, upon final recess today, Desk 82, for a formal meeting, to consider pending business.

Natural Resources, upon lunch recess today, Desk 112, for a formal meeting, to consider **SB 1888**.

Criminal Jurisprudence, upon lunch recess today, Desk 59, for a formal meeting, to consider **SB 110**, **SB 1011**, **SB 1179**, **SB 1477**, **SB 1745**, and **SJR 3**.

Appropriations, upon final recess today, E1.030, for a public hearing, to consider **SB 206**, **SB 1522**, and **SB 1862**.

RECESS

Representative Goolsby moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:51 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Heflin on motion of Lewis.

Turner on motion of Lewis.

Wohlgemuth on motion of Lewis.

HR 1035 - ADOPTED
(by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1035**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1035, Honoring Richmond State School on receiving the 2002 Texas State Agency Safety Excellence Award.

HR 1035 was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Giddings who introduced representatives from the Richmond State School.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HR 1313 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 1313**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1313, Honoring the contributions of Dr. Morris A. Stribling of San Antonio.

HR 1313 was adopted without objection.

HR 1314 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 1314**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1314, Honoring Art A. Hall of San Antonio as chairman of the African American Leadership Institute.

HR 1314 was adopted without objection.

CSSB 14 - (consideration continued)**Amendment No. 21**

Representative Alonzo offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 15, between "ethnicity," and "or" insert "sexual orientation,".

(2) On page 8, line 22, between "ethnicity," and "or" insert "sexual orientation,".

(3) On page 27, line 17, after the comma, add ", including factors based on sexual orientation".

(4) On page 35, line 7, between "race," and "or" insert "sexual orientation,".

(5) On page 35, line 7, between "religion," and "ethnicity" insert "sexual orientation,".

(6) On page 60, line 20, between "ethnicity," and "or" insert "sexual orientation,".

(7) On page 60, line 24, between "ethnicity," and "or" insert "sexual orientation,".

(8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7.____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, sexual orientation (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4.____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on sexual orientation.

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4.____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on sexual orientation or the fact that the policyholder in question is an elected official.

Amendment No. 22

Representative Alonzo offered the following amendment to Amendment No. 21:

Amend Amendment No. 21 by Alonzo as follows:

(2) Insert the following new item to read as follows:

() Add an appropriately numbered SECTION to the bill to read as follows:

SECTION _____. Notwithstanding any other law, the changes made by Amendment No. _____ by Alonzo to this Act apply only to residential property insurance.

Amendment No. 22 was adopted without objection.

(Gattis in the chair)

Representative Smithee moved to table Amendment No. 21.

A record vote was requested.

The motion to table prevailed by (Record 653): 73 Yeas, 34 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Elkins; Farabee; Flores; Flynn; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Jones, D.; Jones, E.; Keel; King; Krusee; Kuempel; Laubenberg; Mabry; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Mowery; Oliveira; Phillips; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Stick; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Castro; Coleman; Davis, Y.; Dunnam; Escobar; Gallego; Garza; Geren; Giddings; Guillen; Hochberg; Hodge; Menendez; Moreno, J.; Moreno, P.; Naishtat; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Thompson; Uresti; Villarreal; Wilson; Wise; Wolens; Wong.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Dukes; Telford.

Absent, Excused, Committee Meeting — Heflin; Luna; Pitts; Turner; Wohlgemuth.

Absent — Bailey; Capelo; Chavez; Christian; Cook, R.; Crownover; Deshotel; Dutton; Edwards; Eissler; Ellis; Farrar; Goodman; Gutierrez; Haggerty; Hardcastle; Hupp; Isett; Jones, J.; Keffer, B.; Keffer, J.; Kolkhorst; Laney; Lewis; Martinez Fischer; McClendon; Morrison; Nixon; Noriega; Paxton; Peña; Riddle; Solomons; Swinford.

STATEMENTS OF VOTE

When Record No. 653 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eissler

When Record No. 653 was taken, I was in the house but away from my desk. I would have voted yes.

B. Keffer

When Record No. 653 was taken, I was in the house but away from my desk. I would have voted yes.

J. Keffer

When Record No. 653 was taken, I was in the house but away from my desk. I would have voted no.

Martinez Fischer

Amendment No. 23

Representatives Geren, Wolens, and Wise offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 15, between "ethnicity," and "or" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(2) On page 8, line 22, between "ethnicity," and "or" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(3) On page 27, line 17, after the comma, add ", including factors based on whether the insured or applicant has had the same employer for any specified period of time".

(4) On page 35, line 7, between "race," and "or" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(5) On page 35, line 7, between "religion," and "ethnicity" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(6) On page 60, line 20, between "ethnicity," and "or" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(7) On page 60, line 24, between "ethnicity," and "or" insert "whether the insured or applicant has had the same employer for any specified period of time,".

(8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7._____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, whether the insured or applicant has had the same employer for any specified period of time (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on whether the insured or applicant has had the same employer for any specified period of time.

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4. _____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on whether the insured or applicant has had the same employer for any specified period of time or the fact that the policyholder in question is an elected official.

Amendment No. 23 was withdrawn.

HR 1429 - ADOPTED
(by McReynolds)

Representative McReynolds moved to suspend all necessary rules to take up and consider at this time **HR 1429**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1429, In memory of Joe K. Sample of Diboll.

HR 1429 was unanimously adopted by a rising vote.

On motion of Representative Ritter, the names of all the members of the house were added to **HR 1429** as signers thereof.

HR 1309 - ADOPTED
(by Laubenberg)

Representative Laubenberg moved to suspend all necessary rules to take up and consider at this time **HR 1309**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1309, Extending best wishes to Byron Beethe of Longview.

HR 1309 was adopted without objection.

On motion of Representative Taylor, the names of all the members of the house were added to **HR 1309** as signers thereof.

HR 1310 - ADOPTED
(by Laubenberg)

Representative Laubenberg moved to suspend all necessary rules to take up and consider at this time **HR 1310**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1310, Honoring the students of Blue Ridge High School in Collin County for their outstanding achievements.

HR 1310 was adopted without objection.

On motion of Representative Taylor, the names of all the members of the house were added to **HR 1310** as signers thereof.

CSSB 14 - (consideration continued)

(Guillen in the chair)

Amendment No. 24

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 16, between "insured" and the period insert "or violates Article 21.21-8 of this code".

(2) On page 27, line 19, add before the semicolon ", and Article 21.21-8 of this code".

(3) On page 30, line 23, add before the period ", and Article 21.21-8 of this code".

(4) Add a new SECTION to Article 4 of the bill, appropriately numbered, to read as follows:

SECTION 4._____. Article 5.101, Insurance Code is amended by adding a new Section 3D to read as follows:

Sec. 3D. A rate or rating factor is unfairly discriminatory if it violates Article 21.21-8 of this Code.

(5) Add a new SECTION to Article 4 of the bill, appropriately numbered, to read as follows:

SECTION 4._____. Section 3, Article 5.13-2, Insurance Code is amended by adding a new subsection, appropriately numbered, to read as follows:

(). A rate or rating factor is unfairly discriminatory if it violates Article 21.21-8 of this Code.

Amendment No. 24 was withdrawn.

Amendment No. 25

Representative Hardcastle offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

1. On page 8, line 17, after the words "September 1" delete "2004" and substitute "2005".

2. On page 8, line 18, add new Sec. 8 which reads as follows:

Sec. 8 Art. 21.49-2K. MIGRATION OF AUTO INSUREDS. (a) In order to prevent the circumvention of the state's rate regulation of personal automobile insurance through the migration of insureds from insurers subject to regulation to county mutual insurers, and notwithstanding any other law, a county mutual insurance company that is affiliated with an automobile insurer subject to Article 5.101 of this code may not write personal automobile insurance for any insured at a rate, including any applicable policy fee, that, after the application of any discount available to the insured, is lower than the highest rate allowed under the flexibility band for that classification and territory after the application of mandatory discounts and surcharges under department rules.

(b) Not later than the 60th day after the effective date of a benchmark rate, a county mutual insurance company shall make any filing necessary to comply with this section. The rates of the county mutual insurance company that are in effect on the effective date of the benchmark rate continue in effect until the filing is made.

(c) This section applies only to a rate applicable to new insurance policies that are delivered or issued for delivery to be effective on or after January 1, 2004 and to a renewal insurance policy that is delivered or issued for delivery to be effective on or after January 1, 2005. A county mutual insurance company writing risks within the flexibility bands on the effective date of this Act shall file with the commissioner of insurance a transition plan demonstrating the orderly transition for renewal policies. The commissioner of insurance may adopt reasonable rules necessary to implement the transition of renewal policies.

(d) This section does not apply to single interest insurance or insurance on mobile homes, motor homes, travel trailers, motorcycles, antique/classic, custom or specialty automobiles.

3. On page 21, line 14, delete current SECTION 4.13 and substitute the following:

SECTION 4.13. This article takes effect September 1, 2005, except that Sections 14 and 15, Article 5.13-2, Insurance Code, as added by this article, take effect on the effective date of this Act.

4. On page 22, line 13, delete "2004" and substitute "2005".
5. On page 22, line 25, delete "2004" and substitute "2005".
6. On page 23, line 13, delete "2004" and substitute "2005".
7. On page 23, line 26, delete "2004" and substitute "2005".
8. On page 24, line 26, delete "2004" and substitute "2005".
9. On page 24, line 24, delete "2004" and substitute "2005".
10. On page 25, line 16, delete "2004" and substitute "2005".
11. On page 25, line 24, delete "2004" and substitute "2005".

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of family business:

Riddle on motion of Hunter.

CSSB 14 - (consideration continued)

Representative Smithee moved to table Amendment No. 25.

The motion to table prevailed.

Amendment No. 26

Representative Taylor offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

Insert the following on Page 8, Line 23 after the word "origin." to read as follows:

Any automobile rating manual including a risk or rate classifications contained therein used by a county mutual insurer that was previously non-regulated as to rates prior to the effective date of this Article shall be presumed valid and deemed approved by the commissioner unless a classification is expressly prohibited by this Act. Under this article, a county mutual insurer shall file such automobile rating manual and risk classification not later than thirty days after the effective date of this article.

Amendment No. 26 was withdrawn.

Amendment No. 27

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** by adding a new Article to the bill, appropriately numbered, as follows:

ARTICLE _____. PRIOR APPROVAL

SECTION _____.01. Chapter 21, Insurance Code, is amended by adding new Article 21.21-F to read as follows:

Article 21.21-2F. Prior Approval. Notwithstanding any other law to the contrary, other than a statute mandating a rate rollback, no insurer may change a rate, rating factor, policy form, or endorsement for personal automobile or residential property insurance that has not been expressly approved by the commissioner. This article applies to all insurers writing personal automobile and residential property insurance, including Lloyds plan, reciprocal, interexchange, county mutual, and farm mutual insurers.

If the commissioner has not issued an order approving the filing within 30 days after the filing of the application, the insurer may request a hearing on the application, to be held at the State Office of Administrative Hearings under Government Code Chapter 2001. The burden of proof in any such hearing shall be on the insurer. The hearings examiner must issue a proposal for decision within 30 days after the filing of the request for a hearing. The hearings examiner's proposed order shall be final unless the commissioner issues a different order within 15 days after the commissioner receives the proposed order.

(Bonnen in the chair)

Representative Eiland moved to table Amendment No. 27.

A record vote was requested.

The motion to table prevailed by (Record 654): 75 Yeas, 62 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen(C); Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dunnam; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Krusee; Kuempel;

Laubenberg; Madden; Marchant; Martinez Fischer; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Reyna; Seaman; Smithee; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Coleman; Cook, R.; Davis, Y.; Deshotel; Dutton; Edwards; Ellis; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Goolsby; Guillen; Gutierrez; Haggerty; Hamilton; Hochberg; Hodge; Homer; Hopson; Howard; Jones, J.; Kolkhorst; Laney; Lewis; Mabry; McCall; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solis; Solomons; Uresti; West; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker.

Absent, Excused — Dukes; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Luna; Pitts; Turner; Wohlgemuth.

Absent — Chavez; Peña; Smith, W.; Thompson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 654. I intended to vote no.

Hilderbran

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 35).

CSSB 14 - (consideration continued)

Amendment No. 28

On behalf of Representative Peña, Representative Rodriguez offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 13, strike lines 10 through 12.
- (2) On page 14, strike lines 1 through 15.
- (3) On page 14, line 17, strike "or binding arbitration".
- (4) On page 14, line 18, strike "or arbitration".
- (5) On page 45, strike from the comma on line 23 through line 26 and substitute " ;".
- (6) On page 45, strike line 27 through page 46, line 7.
- (7) On page 47, strike lines 5 through 7.

Representative Eiland moved to table Amendment No. 28.

The motion to table prevailed.

Amendment No. 29

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 17 between "(a)" and "An" insert "Notwithstanding any other law, Article 5.26-1 applies to rates for residential property insurance during the rollback period identified in Article 5.26-1".

(2) Strike SECTION 3.07 of the bill by adding a new Article to the bill, appropriately numbered, as follows:

ARTICLE _____ RATE ROLLBACK FOR HOMEOWNERS INSURANCE

SECTION _____ .01. Subchapter C, Chapter 5, Insurance Code, is amended by adding Article 5.26-1 to read as follows:

Article 5.26-1. Rate Rollback

Sec. 1. No insurer may charge rates for residential property insurance on policies issued or renewed during the rollback period that are greater than the insurer's rates for the same type of coverage that were in effect on January 1, 2001.

Sec. 2. "The rollback period" begins October 1, 2003, and ends September 30, 2004.

Sec. 3. In the event of any conflict between this article and Article 5.26 of this chapter, Article 5.142 of this code, or any other law, this article shall prevail.

Sec. 4. A replacement value policy in effect during the rollback period is the same type of policy as an HOB policy in effect on January 1, 2001 and an actual cash value policy in effect during the rollback period is the same type of policy as an HOA policy in effect on January 1, 2001. If an insurer was not writing insurance in this state on January 1, 2001, then its rates shall be deemed to be the benchmark rates set by the Commissioner in effect on January 1, 2001.

Sec. 5. Every insurer subject to this article shall file with the Department no later than July 1, 2003 a copy of all of its rates and rating factors in effect in this state on January 1, 2001, and shall include a sworn affidavit from an officer of the company attesting that the rates filed were the rates in effect on January 1, 2001.

Sec. 6. During the rollback period, the Commissioner may permit an insurer to charge higher rates than those provided in section (1) of this article only if higher rates are required by the Texas or United States Constitution. In that event, the Commissioner shall only permit the insurer to increase rates to the minimum level required to comply with the Texas and United States constitutions. Any insurer that seeks to charge rates in excess of the amounts provided in section (1) of this article must file with the Commissioner, no later than July 1, 2003, a written request to do so. The request must include all evidence the insurer will rely on at the hearing, including a written and sworn copy of all testimony and all exhibits that will be offered. An insured, the public insurance counsel, and any other interested person may participate in the hearing. Notwithstanding any other provision of this code or the Government Code, the hearing shall not be conducted by the State Office of Administrative Hearings, but directly by the commissioner. The burden of proof is on the insurer to show that the rate reduction specified in section (1) would produce rates in violation of the Texas or U.S. constitution. The Commissioner shall conduct the hearing no later than September 1, 2003, and issue an order on the request no later than September 5, 2003. Not later than the 10th day after the date of the

commissioner's order, the insurer, an insured, the public insurance counsel, or any other interested person may file a petition for judicial review in a district court in Travis County. The standard of review of the commissioner's order is substantial evidence. During the appeal brought by an insurer, the insurer may charge rates above those in effect on January 1, 2001. If on final appeal the court finds that rates below those actually charged by the insurer would have complied with the Texas and U.S. constitutions, the insurer shall refund the difference in overcharged premium to each policyholder (calculated by subtracting the premium under the rates determined by the court to comply with the Texas and U.S. constitutions from the premiums actually charged by the insurer), plus twelve percent simple interest per annum.

Sec. 7. This article applies to all insurers, including a reciprocal or interinsurance exchange, mutual, capital stock company, fraternal benefit society, farm mutual, local mutual aid association, county mutual insurance company, association, Lloyd's plan company, and any other entity writing residential property insurance.

(Alonzo in the chair)

(Turner now present)

Representative Smithee moved to table Amendment No. 29.

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 29 and the vote was announced yeas 72, nays 67.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 655): 73 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Farabee; Flynn; Gattis; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Miller; Morrison; Mowery; Nixon; Paxton; Reyna; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Alonzo(C); Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dunnam; Dutton; Elkins; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Goolsby; Guillen; Gutierrez; Haggerty; Hamilton; Hardcastle; Hochberg; Hodge; Homer; Hopson; Jones, J.; Kolkhorst; Laney; Lewis; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Turner; Uresti; Villarreal; West; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker.

Absent, Excused — Dukes; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Luna; Pitts; Wohlgemuth.

Absent — Bailey; Edwards; Ellis; Peña; Thompson.

(Speaker in the chair)

The speaker stated that the motion to table prevailed by the above vote.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 655. I intended to vote no.

Bohac

I was shown voting yes on Record No. 655. I intended to vote no.

Kuempel

REASON FOR VOTE

I voted against the Wolens amendment mandating an arbitrary rollback of all insurance rates to levels of January 1, 2001, because I favor the concept of immediately requiring insurance companies to charge rates that are reasonable and just, as contained in the present version of **CSSB 14**. I fear that an arbitrary rollback with the right of endless appeals by the insurance company would result in significant litigation that would ultimately be harmful to the consumer.

F. Brown, Denny, Hilderbran, Hunter,
Keel, Madden, McCall, Nixon, Reyna, and Talton

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 3, 4, and 5).

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Bailey on motion of Garza.

Ellis on motion of Homer.

The following member was granted leave of absence for the remainder of today because of illness:

Peña on motion of Hochberg.

CSSB 14 - (consideration continued)

Amendment No. 30

On behalf of Representative Wolens, Representative Hochberg offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 17 between "(a)" and "An" insert "Notwithstanding any other law, an insurer shall comply with Art. 21.49-2U.".

(2) Strike SECTION 3.07 of the bill by adding a new Article to the bill, appropriately numbered, as follows:

SECTION 2.01. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49-2U to read as follows:

Art. 21.49-2U. USE OF CREDIT SCORING IN CERTAIN PERSONAL LINES OF INSURANCE

Sec. 1. No personal automobile or residential property insurer or agent may use credit scoring for underwriting or rating.

Sec. 2. "Credit scoring" means an underwriting guideline or rating factor based in whole or in part on information related to an individual's credit, credit worthiness, credit standing, credit capacity, credit history, or financial responsibility. The term includes, but is not limited to, an insurance score and any numerical representation of the insurance risk an individual presents, using the individual's attributes derived from a credit report or credit information or other information in a formula to assess insurance risk on an actuarial or statistical basis.

Sec. 3. This article applies to all insurers, including a reciprocal or interinsurance exchange, farm mutual, county mutual insurance company, Lloyd's plan company, and any other entity writing personal automobile or residential property insurance.

(Luna now present)

(Swinford in the chair)

(Wohlgemuth now present)

Representative Taylor moved to table Amendment No. 30.

A record vote was requested.

The motion to table was lost by (Record 656): 50 Yeas, 89 Nays, 1 Present, not voting.

Yeas — Allen; Bonnen; Branch; Chisum; Christian; Cook, B.; Corte; Crabb; Dawson; Delisi; Driver; Eiland; Eissler; Flynn; Gattis; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hill; Hope; Howard; Hughes; Hunter; Isett; Jones, D.; Keel; Keffer, B.; King; Krusee; Laubenberg; Marchant; Morrison; Mowery; Nixon; Paxton; Phillips; Seaman; Smith, W.; Smithee; Stick; Swinford(C); Talton; Taylor; Van Arsdale; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Baxter; Berman; Bohac; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Denny; Deshotel; Dunnam; Dutton; Edwards; Elkins; Escobar; Farabee; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Goolsby; Griggs; Guillen; Gutierrez; Haggerty; Hamilton; Hardcastle; Hilderbran; Hochberg; Hodge; Homer; Hopson; Hupp; Jones, E.; Jones, J.; Keffer, J.; Kolkhorst; Kuempel; Laney; Lewis; Luna; Mabry; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller;

Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Smith, T.; Solis; Solomons; Truitt; Turner; Uresti; Villarreal; West; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker.

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Crownover; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 656. I intended to vote no.

Hope

I was shown voting yes on Record No. 656. I intended to vote no.

Zedler

A record vote was requested.

Amendment No. 30 was adopted by (Record 657): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford(C); Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Grusendorf; Homer; Thompson.

STATEMENT OF VOTE

When Record No. 657 was taken, my vote failed to register. I would have voted yes.

Homer

Amendment No. 31

Representatives Turner and Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 7, strike lines 26 through 27, and substitute the following:

(f) No territory in a rating manual shall be smaller than the boundary of a county except as follows:

(1) for counties in the designated catastrophe area for the Texas Windstorm Insurance Association under Article 21.49 of this code, insurers may file their own territories no smaller than the areas seaward of the intracoastal canal and landward of the intracoastal canal to reflect the exposure to weather-related catastrophic events; and

(2) insurers may subdivide territories between the portion of the county located in the catastrophe area and that portion not located in the catastrophe area in non-first tier coastal counties, as defined in Article 21.49 of this code.

(2) On page 23, strike lines 26 through 27, and substitute the following:

(b) No territory in a rating manual shall be smaller than the boundary of a county except as follows:

(1) for counties in the designated catastrophe area for the Texas Windstorm Insurance Association under Article 21.49 of this code, insurers may file their own territories no smaller than the areas seaward of the intracoastal canal and landward of the intracoastal canal to reflect the exposure to weather-related catastrophic events; and

(2) insurers may subdivide territories between the portion of the county located in the catastrophe area and that portion not located in the catastrophe area in non-first tier coastal counties, as defined in Article 21.49 of this code.

(3) Add a new subsection (i) on page 49 after line 8 as follows:

(i) No insurance company governed by this section may use a territory in a rating manual smaller than the boundary of a county except as follows:

(1) for counties in the designated catastrophe area for the Texas Windstorm Insurance Association under Article 21.49 of this code, insurers may file their own territories no smaller than the areas seaward of the intracoastal canal and landward of the intracoastal canal to reflect the exposure to weather-related catastrophic events; and

(2) insurers may subdivide territories between the portion of the county located in the catastrophe area and that portion not located in the catastrophe area in non-first tier coastal counties, as defined in Article 21.49 of this code.

(4) In Article 4, add a new SECTION, appropriately numbered, to read as follows:

SECTION 4. _____. Section 5, Article 5.13-2, Insurance Code, is amended by adding the following subsection (f)

(f) No insurance company governed by this subchapter may use a territory in a rating manual smaller than the boundary of a county except as follows:

(1) for counties in the designated catastrophe area for the Texas Windstorm Insurance Association under Article 21.49 of this code, insurers may file their own territories no smaller than the areas seaward of the intracoastal canal and landward of the intracoastal canal to reflect the exposure to weather-related catastrophic events; and

(2) insurers may subdivide territories between the portion of the county located in the catastrophe area and that portion not located in the catastrophe area in non-first tier coastal counties, as defined in Article 21.49 of this code.

(Hardcastle in the chair)

Representative Smithee moved to table Amendment No. 31.

A record vote was requested.

The motion to table prevailed by (Record 658): 89 Yeas, 50 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Paxton; Phillips; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Jones, J.; Laney; Lewis; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Solomons; Turner; Uresti; West; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Hardcastle(C).

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Thompson.

Amendment No. 32

Representatives Turner and Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 8, strike lines 1 through 4, and substitute the following:

Sec. 4. RATE FILINGS. (a) An insurer must file with the department all rates and reasonable and pertinent supporting information. The insurer shall include in the filing any statistics or other information to support the rates to be used by the insurer and as required by the commissioner by rule, including information necessary to evidence that the computation of the rate does not include disallowed expenses. The insurer shall use the rating manual and supplementary rating information promulgated by the Department under Article 5.96 of this code.

(2) On page 54, strike lines 9 through 17, and substitute the following

(a) Each insurer shall file with the commissioner all rates, supplementary rating information, and reasonable and pertinent supporting information for risks written in this state; provided, however, that personal automobile and residential property insurers shall use the rating manual and supplementary rating information promulgated by the Department under Article 5.96 of this code.

(3) On page 85, strike lines 2 through 9.

Representative Smithee moved to table Amendment No. 32.

A record vote was requested.

The motion to table prevailed by (Record 659): 91 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Stick; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; Villarreal; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Escobar; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Naishtat; Oliveira; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Solomons; Turner; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker; Hardcastle(C).

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Cook, R.; Davis, J.; Moreno, P.; Noriega; Thompson.

Amendment No. 33

Representative Rodriguez offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 14 add the following at the end of the new subsection (h) on line 15: "The arbitrator selected by the Department shall have at least five years experience in insurance rate making, shall not have worked for, or provided services to, any insurance company in the previous three years.

(2) On page 46, line 7, add after the period: "The arbitrator selected by the Department shall have at least five years experience in insurance rate making, shall not have worked for, or provided services to, any insurance company in the previous three years.

Amendment No. 33 was adopted without objection.

Representative Smithee moved to postpone consideration of **CSSB 14** until 9 a.m. tomorrow.

The motion prevailed without objection.

**HB 638 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Chisum called up with senate amendments for consideration at this time,

HB 638, A bill to be entitled an Act relating to emissions reductions incentives and the emissions reductions incentives account.

Representative Chisum moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 638**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 638**: Chisum, chair; Capelo; Wilson; Bonnen; and McCall.

**SB 277 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Chisum, the house granted the request of the senate for the appointment of a conference committee on **SB 277**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 277**: Chisum, chair; W. Smith; Driver; Hamilton; and Edwards.

**HB 346 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Dutton called up with senate amendments for consideration at this time,

HB 346, A bill to be entitled An Act relating to the period during which a person may be confined for contempt of court.

On motion of Representative Dutton, the house concurred in the senate amendments to **HB 346** by (Record 660): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Hardcastle(C).

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Thompson.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

on page one (1), line twenty (20), strike the word "two" and insert "three".

**SB 279 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Solomons, the house granted the request of the senate for the appointment of a conference committee on **SB 279**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 279**: Solomons, chair; Swinford; Hartnett; Allen; and R. Cook.

**SB 340 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hill, the house granted the request of the senate for the appointment of a conference committee on **SB 340**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 340**: Hill, chair; Laubenberg; Hegar; Puente; and Mowery.

**SB 827 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Keel, the house granted the request of the senate for the appointment of a conference committee on **SB 827**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 827**: Keel, chair; Hodge; Peña; Stick; and Gattis.

**SB 1010 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Goolsby, the house granted the request of the senate for the appointment of a conference committee on **SB 1010**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1010**: Giddings, chair; Geren; Hartnett; Gutierrez; and Woolley.

(Speaker in the chair)

**HB 1536 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Reyna called up with senate amendments for consideration at this time,

HB 1536, A bill to be entitled An Act relating to certain communication with and access to a child following termination of the parent-child relationship.

On motion of Representative Reyna, the house concurred in the senate amendments to **HB 1536**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1536** (Senate committee printing) in SECTION 1 of the bill, in proposed Section 161.2061(a), Family Code (page 1, lines 29 and 30), by striking "or a licensed child-placing agency, as defined by Section 101.017".

**HB 2096 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Pickett called up with senate amendments for consideration at this time,

HB 2096, A bill to be entitled An Act relating to creation of an offense for transporting a person in certain trailers and semitrailers.

On motion of Representative Pickett, the house concurred in the senate amendments to **HB 2096**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2096** by inserting a new Subsection (c) (Committee Printing, page 1, line 33) to read as follows:

"(c) An offense under the section is a Class B misdemeanor."

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2096** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Title 5, Penal Code, is amended by adding Chapter 20A to read as follows:

CHAPTER 20A. TRAFFICKING OF PERSONS

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services that are performed or provided by another person and obtained through an actor's:

(A) threatening to cause bodily injury to another;

(B) restraining another in a manner described by Section 20.01(1);

or

(C) withholding from another the person's:

(i) government records;

(ii) identifying information; or

(iii) personal property.

(2) "Traffic" means to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion, or force.

Sec. 20A.02. TRAFFICKING OF PERSONS. (a) A person commits an offense if the person knowingly traffics another person with the intent that the trafficked person engage in:

(1) forced labor or services; or

(2) conduct that constitutes an offense under Chapter 43.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the offense is committed under Subsection (a)(2) and the person who is trafficked is younger than 14 years of age at the time of the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

SECTION _____. Section 71.02(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32~~[-Penal Code]~~;

(9) any offense under Chapter 36~~[-Penal Code]~~;

(10) any offense under Chapter 34~~[-Penal Code]~~; ~~or~~

(11) any offense under Section 37.11(a); or

(12) any offense under Chapter 20A~~[-Penal Code]~~.

HB 2922 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Marchant called up with senate amendments for consideration at this time,

HB 2922, A bill to be entitled An Act relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.

On motion of Representative Marchant, the house concurred in the senate amendments to **HB 2922**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2922** in SECTION 26(a)(1) of the bill (engrossed version page 1258, line 23) by striking "21.52B,".

HB 1637 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Oliveira called up with senate amendments for consideration at this time,

HB 1637, A bill to be entitled An Act relating to the formation, organization, management, and records of certain business organizations.

On motion of Representative Oliveira, the house concurred in the senate amendments to **HB 1637**.

Senate Committee Substitute

HB 1637, A bill to be entitled An Act relating to the formation, organization, management, and records of certain business organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.23, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended by adding Section C-1 and amending Sections D, G, and H to read as follows:

C-1. Members or managers may take action at a meeting of the members or managers or without a meeting in any manner permitted by the articles of organization, regulations, or this Act. Unless otherwise provided by the articles of organization or the regulations, an action is effective if it is taken by:

(1) an affirmative vote of those persons having not fewer than the minimum number of votes that would be necessary to take the action at a meeting at which all members or managers, as the case may be, entitled to vote on the action were present and voted; or

(2) consent of each member of the limited liability company, which may be established by:

(a) the member's failure to object to the action in a timely manner, if the member has full knowledge of the action;

(b) consent to the action in writing signed by the member; or

(c) any other means reasonably evidencing consent.

D. Except as provided in the articles of organization or the regulations, the affirmative vote, approval, or consent of a majority of all the members is required to:

~~(1) [change the status of the limited liability company from one in which management is reserved to the members to one in which management is vested in one or more managers, or vice versa;~~

~~[(2) issue any additional membership interests in the limited liability company subsequent to the issuance of membership interests to the initial members of the limited liability company;~~

~~[(3)] approve any merger, consolidation, share or interest exchange, or other transaction authorized by or subject to the provisions of Part Ten of this Act;~~

~~[(2) [(4)] voluntarily cause the dissolution of the limited liability company;~~

~~[(5) authorize any transaction, agreement, or action on behalf of the limited liability company that is unrelated to its purpose as set forth in the regulations or articles of organization or that otherwise contravenes the regulations;] or~~

~~[(3) [(6)] authorize any act that would make it impossible to carry on the ordinary business of the limited liability company.~~

G. Except as provided in the articles of organization or the regulations, if ~~[no capital has been paid into]~~ the limited liability company has no members, has not received any capital, and has not otherwise commenced business, a majority

of the managers named in the articles of organization may amend the articles of organization or dissolve the limited liability company. Except as provided by the articles of organization or the regulations, if the limited liability company has not received any capital, the limited liability company has not otherwise commenced business, and ~~or if~~ the management has been reserved to the members, a majority of the members named in the articles of organization may amend the articles of organization or dissolve the limited liability company. In such event, the persons adopting such amendments to the articles of organization or authorizing such dissolution shall sign and file with the Secretary of State the articles of amendment provided for in Articles 3.06 and 3.07 of this Act and the articles of dissolution provided for in Articles 6.05, 6.07, and 6.08 of this Act, as appropriate.

H. Except as provided in the articles of organization or the regulations, if any capital has been paid into the limited liability company or the limited liability company has otherwise commenced business, the affirmative vote, approval, or consent of all members is required to amend the articles of organization.

SECTION 2. Article 4.01, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 4.01. ADMISSION OF MEMBERS AND ISSUANCE OF MEMBERSHIP INTERESTS. A. A limited liability company may have one or more members. In connection with the formation of a limited liability company, a person [~~acquiring an interest as a member~~] becomes a member on the latter of:

- (1) the date of formation of the limited liability company; or
- (2) the date stated in the records of the limited liability company as the date that the person becomes a member or, if no date is stated in those records, on the date that the person's admission is first reflected in the records of the limited liability company.

B. After the formation of a limited liability company, a person becomes a new member:

(1) in the case of a person who is not an assignee of a membership interest, including a person acquiring a membership interest directly from the limited liability company and a person to be admitted as a member of the limited liability company without acquiring a membership interest, on compliance with the provisions of the regulations governing admission of new members or, if the regulations contain no relevant admission provisions, on the written consent of all members; and

(2) in the case of an assignee of a membership interest, as provided by Section A of Article 4.07 of this Act.

B-1. After the formation of a limited liability company, the limited liability company may issue a membership interest in the limited liability company to a person on compliance with the provisions of the regulations governing issuance of membership interests or, if the regulations contain no relevant issuance provisions, upon the consent of all members.

B-2. (1) The regulations may provide that a person may be admitted as a member of a limited liability company and acquire a membership interest in the limited liability company, including a person who will be the sole member, without:

(a) making a contribution to the limited liability company; or

(b) assuming an obligation to make a contribution to the limited liability company.

(2) If one or more persons own a membership interest in a limited liability company, the regulations may provide that a person may be admitted to the limited liability company as a member without acquiring a membership interest in the limited liability company.

C. Any person may be a member unless the person lacks capacity apart from this Act.

SECTION 3. Article 5.02-1, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 5.02-1. ALLOCATION OF PROFITS AND LOSSES. A. The profits and losses of a limited liability company shall be allocated among the members and among classes of members in the manner provided in the regulations. If the regulations do not otherwise provide, the profits and losses shall be allocated on the basis of the agreed value of the contributions made by each member, as ~~in~~ accordance with the then current percentage or other interest in the limited liability company of the members] stated in limited liability company records of the kind described in Section A of Article 2.22 of this Act.

SECTION 4. Article 5.05, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 5.05. WITHDRAWAL OR EXPULSION OF MEMBER. A. A member may withdraw or be expelled from a limited liability company only at the time or on the occurrence of events specified in the regulations.

SECTION 5. Article 6.01, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 6.01. DISSOLUTION. A. Except as provided by Section B or C of this Article, a limited liability company shall be dissolved on the first of the following to occur:

(1) the period, if any, fixed for the duration of the limited liability company expires;

(2) the occurrence of events specified in the articles of organization or regulations to cause dissolution;

(3) the action of the members to dissolve the limited liability company;

(4) if no capital has been paid into the limited liability company and the limited liability company has not otherwise commenced business, the act of a majority of the managers or members named in the articles of organization to dissolve the limited liability company as provided by Section G of Article 2.23 of this Act;

(5) except as otherwise provided in the regulations, [~~upon the death, expulsion, withdrawal pursuant to or as provided in the articles of organization or regulations, bankruptcy, or dissolution of a member or~~] the occurrence of any [~~other~~] event that [which] terminates the continued membership of the last remaining [a] member of [in] the limited liability company; or

(6) entry of a decree of judicial dissolution under Section 6.02 of this Act.

B. A limited liability company is not dissolved if an event of dissolution described by Subsection (1) or [5] (2)[, or (5)] of Section A of this Article occurs, there is at least one remaining member, and the business of the limited liability company is continued by the vote of the members or class as stated in the articles of organization or regulations of the limited liability company, or if not so stated, by all remaining members. Unless otherwise provided in the articles of organization or in the regulations, an election to continue the business of the limited liability company must be made within 90 days after the date of the occurrence of the event of dissolution. If an election to continue the business of the limited liability company is made following the termination of the period fixed for the duration of the limited liability company or the occurrence of events specified in the articles of organization to cause dissolution, the election is not effective unless an appropriate amendment is made by the limited liability company to its articles of organization during the three-year period following the date of the event of dissolution, extending the period fixed for the duration of the limited liability company or deleting the event specified in the articles of organization that caused the dissolution, as applicable.

C. A limited liability company is not dissolved on the occurrence of an event of dissolution described by Subsection (5) of Section A of this Article if the legal representative or successor of the last remaining member agrees to continue the limited liability company and to become a member as of the date of the termination of the last remaining member's membership in the limited liability company or designates another person who agrees to become a member of the limited liability company as of the date of the termination. Unless otherwise provided in the articles of organization or in the regulations, the agreement of the legal representative or successor to continue the limited liability company and to become a member or the designation of another person who agrees to become a member must be made not later than 90 days after the date of termination of the last remaining member's membership in the limited liability company.

SECTION 6. Article 6.06, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 6.06. REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS. A. At any time before the issuance of a certificate of dissolution by the Secretary of State, or not later than 120 days after the date of the issuance of the certificate of dissolution, a limited liability company may revoke voluntary dissolution proceedings by the written consent of all its members.

A-1. After revocation of voluntary dissolution is authorized as provided in Section A of this Article, the limited liability company shall, if a certificate of dissolution of the limited liability company has been issued by the Secretary of State, deliver to the Secretary of State for filing not later than 120 days after the date the certificate was issued, the original and a copy of the articles of revocation of dissolution executed on behalf of the limited liability company by a manager or authorized member, that set forth:

- (1) the name of the limited liability company;
- (2) the date that the revocation of dissolution was authorized and, if the dissolution has become effective, the effective date of the dissolution that was revoked; and
- (3) a statement that the limited liability company elected to revoke voluntary dissolution proceedings by written consent of all of its members.

A-2. Except as provided by Section A-3 of this Article, if the Secretary of State finds that the articles of revocation of dissolution conform to law, the Secretary of State shall, when the appropriate filing fee is paid as required by law:

- (1) endorse the original and the copy with the word "Filed" and the month, day, and year of the filing;
- (2) file the original in the Secretary of State's office;
- (3) issue a certificate of revocation of dissolution to which the Secretary of State shall affix the copy; and
- (4) deliver to the limited liability company or its representative the certificate of revocation of dissolution, together with the affixed copy.

A-3. If the limited liability company's name is the same as or deceptively similar to a name already on file or reserved or registered as specified in Article 2.03 of this Act, the Secretary of State shall issue to the limited liability company a certificate of revocation of dissolution as provided by Section A-2 of this Article only if the limited liability company contemporaneously amends its articles of organization to change its name.

B. Upon the revocation of voluntary dissolution proceedings the limited liability company may again carry on its business. If a limited liability company revokes voluntary dissolution proceedings prior to the issuance by the Secretary of State of a certificate of dissolution of the limited liability company, the limited liability company may again carry on its business as though voluntary dissolution proceedings had not occurred. If a limited liability company revokes voluntary dissolution proceedings after the issuance by the Secretary of State of a certificate of dissolution of the limited liability company, then on the issuance by the Secretary of State of a certificate of revocation of dissolution:

- (1) the revocation shall be effective;
- (2) the existence of the limited liability company shall be deemed to have continued without interruption after the issuance by the Secretary of State of the certificate of dissolution;
- (3) the limited liability company may carry on its business as though voluntary dissolution proceedings had not occurred; and

(4) the existence of the limited liability company shall continue until the limited liability company is subsequently dissolved or otherwise ceases to exist under the provisions of this Act.

SECTION 7. Article 7.03, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 7.03. LIMITED LIABILITY COMPANY NAME OF FOREIGN LIMITED LIABILITY COMPANY. A. No certificate of authority shall be issued to a foreign limited liability company unless the limited liability company name of the such limited liability company:

(1) Shall contain the word "Limited Liability Company" or "Limited Company" or the abbreviations "L.L.C.," "LLC," "LC," or "L.C." and shall contain any such additional words ~~[as may be]~~ required by law. The word "Limited" may be abbreviated as "Ltd." or "LTD" and the word "Company" may be abbreviated as "Co." However, a foreign limited liability company that procured a certificate of authority to transact business in this state before September 1, 1993, and that complied with this Section on the date of procuring the certificate, but does not comply with this Section as revised, is not required to change its name. This subsection does not apply to a foreign limited liability company that is not characterized as a limited liability company under the laws of the jurisdiction of its formation but elects to procure a certificate of authority pursuant to Article 7.01 of this Act as described by Subsection (9) of Section A of Article 1.02 of this Act.

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of organization.

(3) Shall not be the same as, or deceptively similar to, the name of any domestic limited liability company, corporation or limited partnership existing under the laws of this state or of any foreign limited liability company, corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved or registered in the manner provided in this Act or any other statute relating to corporations, partnerships, or other business entities; provided that a name may be similar if written consent is obtained from the existing limited liability company, corporation or limited partnership having the name deemed to be similar or the person, or limited liability company, for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State. A certificate of authority shall be issued as provided in this Act to any foreign limited liability company having a name the same as, deceptively similar to, or, if no consent is given, similar to the name of any limited liability company existing under the laws of this state or of any foreign limited liability company authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved or registered, provided such foreign limited liability company qualifies and does business under a name that meets the requirements of this article. The foreign limited liability company shall set forth in the application for a certificate of authority the name under which it is qualifying and shall file an assumed name certificate as required by law.

SECTION 8. Section A, Article 7.05, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

A. ~~To [in order to]~~ procure a Certificate of Authority to transact business in this State, a foreign limited liability company shall make application therefor to the Secretary of State, which application shall set forth:

(1) The name of the foreign limited liability company as stated in the company's formation documents or in any amendments to the company's formation documents in the state or country under the laws of which it is organized.

(2) If the name of the limited liability company does not contain the word "Limited," "Ltd.," or "L.C." or other word or abbreviation the company is required to include in its name under Article 7.03 of this Act, then the name of the foreign limited liability company with the word or abbreviation which it elects to add thereto for use in this state; if the foreign limited liability company is required to qualify under a name other than its foreign limited liability company name, then the name under which the foreign limited liability company is to be qualified.

(3) The date of organization and the period of duration of the foreign limited liability company.

(4) The address of the principal office of the foreign limited liability company in the state or country under the laws of which it is organized.

(5) The address of the registered office of the foreign limited liability company in this state, and the name of its registered agent in this state at such address.

(6) The purpose or purposes of the foreign limited liability company which it proposes to pursue in the transaction of business in this state and a statement that it is authorized to pursue such purpose or purposes in the state or country under the laws of which it is organized.

(7) The names and respective addresses of the managers of the foreign limited liability company.

(8) A statement that the limited liability company exists as a valid entity under the laws of its jurisdiction of formation.

SECTION 9. Section A, Article 7.06, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

A. The original and a copy of the application of the foreign limited liability company for a Certificate of Authority shall be delivered to the Secretary of State [~~together with a certificate issued by an authorized officer of the jurisdiction of the foreign limited liability company's organization evidencing its existence. If the certificate is in a language other than English, a translation of the certificate, under the oath of the translator, must be attached to the certificate. The certificate must be dated after the 91st day preceding the date on which the application is filed~~]. If the Secretary of State finds that the application conforms to law, the Secretary of State shall, when the appropriate filing fee is paid as required by law:

(1) Endorse on the original and a copy the word "filed," and the month, day, and year of filing thereof.

(2) File in the office of the Secretary of State the original ~~[and a certificate evidencing the foreign limited liability company existence].~~

(3) Issue a Certificate of Authority to transact business in this state to which there shall be affixed the copy.

SECTION 10. Section A, Article 8.12, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

A. Subject to Section C of this Article, Articles 2.07, 2.08, 4.14, and 5.14 and Part Seven of the TBCA apply to a limited liability company and its members, managers, and officers.

SECTION 11. Section B, Article 11.04, Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), is amended to read as follows:

B. This Article does not prohibit employment by a professional limited liability company of nurses or clerks, secretaries, bookkeepers, technicians, ~~[nurses,~~ assistants, and other individuals who are not usually and ordinarily considered by custom and practice to be rendering professional service for which a license or other legal authorization is required. A person may not, under the guise of employment, practice a profession in this state unless licensed or otherwise legally authorized to practice that profession under the laws of this state. To the extent of a conflict between this section and any other law, this section controls.

SECTION 12. Section 1.02(12), Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(12) "Person" includes [means] an individual, business trust, registered limited liability partnership, association, limited liability company, government, governmental subdivision, governmental agency, governmental instrumentality, partnership, limited partnership, ~~[foreign limited partnership,~~ trust, estate, corporation, custodian, trustee, executor, administrator, nominee, or any other legal or commercial entity in its own or a representative capacity, regardless of whether the entity is formed under the laws of this state or any other jurisdiction.

SECTION 13. Section 1.03, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.03. PARTNERSHIP NAME. Except as provided by Section 2.14(a)(3) of this Act, the name of a limited partnership as stated in its certificate of limited partnership, a reserved or registered name, or the name under which a foreign limited partnership is permitted to register to do business in Texas as contained in its application for registration as a foreign limited partnership must contain the words "Limited Partnership," "Limited," or the abbreviation "LP," "L.P.," or "Ltd." as the last words or letters of its name and may not:

(1) contain the name of a limited partner unless:

(A) that name is also the name of a general partner; or

(B) the business of the limited partnership or foreign limited partnership had been carried on under that name before the admission of that limited partner;

(2) contain a word or phrase indicating or implying that it is organized other than for a purpose stated in its partnership agreement;

(3) be the same as or deceptively similar to the name of a corporation, limited liability company, or limited partnership that exists under the laws of Texas, that has a certificate of authority to transact business as a foreign corporation or limited liability company in Texas, or that is registered as a foreign limited partnership in Texas, or a name that has been reserved or registered for a corporation, limited liability company, limited partnership, or foreign limited partnership under the laws of Texas, except that a limited partnership or foreign limited partnership may adopt, reserve, or register, as appropriate, a name that is similar if written consent is obtained from the corporation, limited liability company, limited partnership, or foreign limited partnership having the name considered similar or from the person for whom the name considered similar is reserved or registered in the office of the secretary of state; or

(4) contain a word or phrase indicating or implying that it is a corporation.

SECTION 14. Section 1.06(a), Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A limited partnership or foreign limited partnership subject to this Act shall have and maintain in Texas:

(1) a registered office, which need not be a place of its business in Texas; and

(2) a registered agent for service of process on the partnership, which may be:

(A) an individual who is a resident of Texas and whose business office is the same as the partnership's registered office; or

(B) a person organized under or authorized to transact business in Texas that has ~~a domestic corporation or a foreign corporation that has a certificate of authority to transact business in Texas and~~ a business office that is the same as the partnership's registered office.

SECTION 15. Section 2.11(i), Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) For purposes of this section, the term "other entity" means any entity, whether organized for profit or not, that is a corporation, limited partnership (other than a domestic or foreign limited partnership), general partnership, limited liability company, joint venture, joint stock company, cooperative, association, bank, insurance company or other legal entity organized pursuant to the laws of this state or any other state or country to the extent such laws or the constituent documents of that entity, not inconsistent with such laws, permit that entity to enter into a merger or partnership interest exchange as permitted by this section.

SECTION 16. Section 2.14(a), Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A limited partnership is a registered limited liability partnership as well as a limited partnership if it:

(1) registers as a registered limited liability partnership as provided by Section 3.08(b), Texas Revised Partnership Act, as permitted by its partnership agreement or, if its partnership agreement does not include provisions for becoming a registered limited liability partnership, with the consent of partners required to amend its partnership agreement;

(2) complies with Section 3.08(d), Texas Revised Partnership Act; and

(3) has as the last words or letters of its name the words "Limited Partnership" or the abbreviation "Ltd." followed by the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "LLP" or "L.L.P."

SECTION 17. Section 4.01, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01. ADMISSION OF ~~[ADDITIONAL]~~ GENERAL PARTNERS. (a) After the formation of a limited partnership, additional general partners may be admitted as provided in a written partnership agreement or, if a written partnership agreement does not provide for the admission of additional general partners, with the written consent of all partners.

(b) Any person may be a general partner unless the person lacks capacity apart from this Act.

(c)(1) If provided in a written partnership agreement, a person may be admitted as a general partner in a limited partnership, including as the sole general partner, and acquire a partnership interest in the limited partnership without:

(A) making a contribution to the limited partnership; or

(B) assuming an obligation to make a contribution to the limited partnership.

(2) If provided in a written partnership agreement, a person may be admitted as a general partner in a limited partnership, including as the sole general partner, without acquiring a partnership interest in the limited partnership.

(d) Nothing contained in this section limits or otherwise affects the provisions of Section 4.03 of this Act.

SECTION 18. Section 5.01, Texas Revised Limited Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.01. FORM OF CONTRIBUTION. The contribution of a ~~[limited]~~ partner may consist of any tangible or intangible benefit to the limited partnership or other property of any kind or nature, including cash, a promissory note, services performed, a contract for services to be performed, other interests in or securities of the limited partnership, or interests in or securities of any other limited partnership, domestic or foreign, or other entity.

SECTION 19. Section 3.08(c), Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Name. A registered limited liability partnership's name must contain the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "LLP" or "L.L.P." as the last words or letters of its name.

SECTION 20. Section 4.04(a), Texas Revised Partnership Act (Article 6132b-4.04, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Duties. A partner owes to the partnership, ~~and~~ the other partners, and transferees of deceased partners designated in Section 5.04(b):

- (1) a duty of loyalty; and
- (2) a duty of care.

SECTION 21. Section 6.01(b), Texas Revised Partnership Act (Article 6132b-6.01, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Event of Withdrawal. An event of withdrawal of a partner occurs on:

(1) receipt by the partnership of notice of the partner's express will to withdraw as a partner on the date of receipt of the notice or on a later date specified in the notice;

(2) an event specified in the partnership agreement as causing the partner's withdrawal;

(3) the partner's expulsion as provided in the partnership agreement;

(4) the partner's expulsion by the vote of a majority-in-interest of the other partners if:

(A) it is unlawful to carry on the partnership business with that partner;

(B) there has been a transfer of all or substantially all of that partner's partnership interest, other than:

(i) a transfer for security purposes that has not been foreclosed;

or

(ii) the substitution of a successor trustee or successor personal representative;

(C) within 90 days after the date the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution is not revoked or its charter or its right to conduct business is not reinstated; or

(D) an event requiring a winding up has occurred with respect to a partnership that is a partner;

(5) the partner's expulsion by judicial decree, on application by the partnership or another partner for the partner's expulsion, if the decree determines that ~~[by judicial decree because]~~:

(A) the partner engaged in wrongful conduct that adversely and materially affected the partnership business;

(B) the partner wilfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 4.04; or

(C) the partner engaged in conduct relating to the partnership business that made it not reasonably practicable to carry on the business in partnership with that partner;

(6) the partner:

(A) becoming a debtor in bankruptcy;

(B) executing an assignment for the benefit of creditors;

(C) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or

(D) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the date of expiration of a stay to have the appointment vacated;

(7) in the case of a partner who is an individual:

(A) the partner's death;

(B) the appointment of a guardian or general conservator for the partner; or

(C) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) termination of a partner's existence;

(9) in the case of a partner that has transferred all of the partner's partnership interest, redemption of the transferee's interest under Sections 7.01(n)-(r);

(10) an agreement to continue the partnership under Section 8.01(g) if the partnership has received a notice from the partner under Section 8.01(g) requesting that the partnership be wound up; or

(11) a conversion of the partnership if the partner:

(A) did not consent to the conversion; and

(B) failed to notify the partnership in writing of the partner's desire not to withdraw within 60 days after the later of:

(i) the effective date of the conversion; or

(ii) the date the partner receives actual notice of the conversion.

SECTION 22. Subchapter B, Chapter 405, Government Code, is amended by adding Section 405.020 to read as follows:

Sec. 405.020. PUBLIC RECORDS. (a) The secretary of state shall permanently maintain as a public record any instrument, or the information included in any instrument, that is filed with the secretary of state evidencing the organization of, or otherwise in connection with, any entity formed under the laws of this state.

(b) The secretary of state shall maintain the records required under Subsection (a) in any form the secretary of state considers appropriate.

SECTION 23. Section 405.020, Government Code, as added by this Act, applies only to an instrument or information:

(1) on file with the secretary of state on the effective date of this Act; or

(2) filed with the secretary of state after the effective date of this Act.

SECTION 24. This Act takes effect September 1, 2003.

HB 681 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Farrar called up with senate amendments for consideration at this time,

HB 681, A bill to be entitled An Act relating to the location of a jail or related facility operated by a municipality and a county.

On motion of Representative Farrar, the house concurred in the senate amendments to **HB 681** by (Record 661): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Howard.

Absent, Excused — Bailey; Dukes; Ellis; Peña; Riddle; Telford.

Absent, Excused, Committee Meeting — Heflin; Pitts.

Absent — Gutierrez; Thompson.

Senate Committee Substitute

HB 681, A bill to be entitled An Act relating to the location of a jail or related facility operated by a private vendor or a county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 361.067, Local Government Code, is amended to read as follows:

Sec. 361.067. LOCATION OF JAIL RESTRICTED IN POPULOUS MUNICIPALITY. (a) Notwithstanding any other provision of this subchapter, a private vendor or county may not establish a jail, detention center, work camp, or related facility in a municipality with a population of 1,500,000 or more if that facility is to be located within one-half mile of a public school, institution of higher education, or place of worship.

(b) Subsection (a) does not apply to a booking facility that will be established within 500 feet of an existing county jail or detention facility.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

HB 2415 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hopson moved to lay **HB 2415** on the table subject to call.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Rules and Resolutions, upon final recess today, Desk 133, for a formal meeting, to consider the calendar.

Elections, upon final recess today, Desk 58, for a formal meeting, to consider **SB 1611**.

Land and Resource Management, upon final recess today, Desk 74, for a formal meeting, to consider **SB 1708**.

Insurance, 8:30 a.m. tomorrow, Desk 24, for a formal meeting.

Higher Education, upon final recess today, Desk 86, for a formal meeting.

Regulated Industries, upon final recess today, Representative King's desk, for a formal meeting.

HR 1402 - ADOPTED (by Woolley)

Representative Woolley moved to suspend all necessary rules to take up and consider at this time **HR 1402**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1402, Congratulating Mary Teresia "Tessa" Zavala on passing the Texas Bar Examination.

HR 1402 was adopted without objection.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Edwards and by unanimous consent, the reading and referral of bills was postponed until just prior to recess.

PROVIDING FOR RECESS

Representative Hunter moved that, at the conclusion of the reading of bills and resolutions on first reading, referral to committees, and committee meeting announcements, the house recess until 9 a.m. tomorrow.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Appropriations, upon final recess today, E1.030, for a public hearing.

RECESS

In accordance with a previous motion, the house, at 7:07 p.m., recessed until 9 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 259 (By Chavez), Expressing legislative support for Taiwan, Republic of China, in its bid to obtain observer status in the World Health Organization.

To Border and International Affairs.

HR 1348 (By Gallego), Honoring Judge Edelmira C. Calzada on her retirement as justice of the peace for Precinct 2 in Terrell County.

To Rules and Resolutions.

HR 1349 (By Gallego), Recognizing the contributions of the Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 1350 (By Gallego), Honoring Professor A. Michael Powell on his retirement from teaching at Sul Ross State University.

To Rules and Resolutions.

HR 1351 (By Eiland), Recognizing National Beach Safety Week in Galveston.

To Rules and Resolutions.

HR 1353 (By Bohac), Honoring Leland and Frankie Lee Lawson of Houston on their 68th wedding anniversary.

To Rules and Resolutions.

HR 1354 (By Paxton), Commemorating the exhibition of The Moving Wall memorial in Allen.

To Rules and Resolutions.

HR 1355 (By Wong), Congratulating Courtney and Fred Steves and the Glassman Shoemake Maldonado Architects on receiving a Good Brick Award.

To Rules and Resolutions.

HR 1356 (By Wong), Congratulating Kerry Gingrich and Gingrich Associates Architects on receiving a Good Brick Award.

To Rules and Resolutions.

HR 1357 (By Wong), Congratulating Kaldis Development Interests, Hugo's Restaurant, and Colby Design on receiving a Good Brick Award.

To Rules and Resolutions.

HR 1358 (By Wong), Congratulating Ray + Hollington Architects on receiving a Good Brick Award.

To Rules and Resolutions.

HR 1359 (By Wong), Commending Esther Polland for her service as president of the Jewish Federation of Greater Houston.

To Rules and Resolutions.

HR 1361 (By Menendez), Honoring the Air Force News Agency on its 25th anniversary.

To Rules and Resolutions.

HR 1362 (By Menendez), Congratulating Sara Elizabeth Jones on earning her professional dental laboratory technician certification from The University of Texas Health Science Center at San Antonio.

To Rules and Resolutions.

HR 1365 (By Coleman, Noriega, Farrar, Hochberg, and J. Davis), Recognizing May 25, 2003, as KUHT-TV Channel 8 Day at the Capitol and congratulating the station on its 50th anniversary.

To Rules and Resolutions.

HR 1367 (By Casteel), Congratulating Doug and Anne Miller on being named 2003 Comal County Small Business Persons of the Year.

To Rules and Resolutions.

HR 1368 (By Bohac), Honoring Johnnie and Ruth David of Houston on their 30th wedding anniversary.

To Rules and Resolutions.

HR 1369 (By Stick), Honoring the Community Resources and Information for Special People (CRISP) program for service to the community.

To Rules and Resolutions.

HR 1370 (By Stick), Congratulating Lea Burleson and Blake Buffington on the occasion of their engagement.

To Rules and Resolutions.

HR 1371 (By Stick), In memory of the deceased members of the Veterans of Foreign Wars on Memorial Day.

To Rules and Resolutions.

HR 1373 (By Eissler), Honoring Karl and Ramona Whisennand of The Woodlands on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1374 (By Deshotel), Honoring legislative intern Lloyd Joshua Sams.

To Rules and Resolutions.

HR 1375 (By Deshotel), Honoring legislative intern Robert Loving.

To Rules and Resolutions.

HR 1376 (By Deshotel), Honoring legislative intern Dian King.

To Rules and Resolutions.

HR 1377 (By Deshotel), Honoring legislative intern Keitha Monet Johnson.

To Rules and Resolutions.

HR 1378 (By Deshotel), Honoring legislative intern Shannon Harris.

To Rules and Resolutions.

HR 1379 (By Deshotel), Honoring legislative intern Latosha McGill.

To Rules and Resolutions.

HR 1380 (By Deshotel), Honoring legislative intern Farsam Farschtschian.

To Rules and Resolutions.

HR 1381 (By Deshotel), Honoring legislative intern Nathaniel James Walker.

To Rules and Resolutions.

HR 1382 (By Deshotel), Honoring legislative intern Van Pham.

To Rules and Resolutions.

HR 1383 (By Deshotel), Honoring legislative intern Ender Reed.

To Rules and Resolutions.

HR 1384 (By Deshotel), Honoring legislative intern Shareen Larmond.

To Rules and Resolutions.

HR 1385 (By Deshotel), Honoring legislative intern Michele Leal.

To Rules and Resolutions.

HR 1386 (By Deshotel), Honoring legislative intern Chesley Hamm.

To Rules and Resolutions.

HR 1387 (By Deshotel), Honoring legislative intern Maria Vittoria Carminati.

To Rules and Resolutions.

HR 1388 (By Deshotel), Honoring legislative intern Andrea Medley.
To Rules and Resolutions.

HR 1389 (By Deshotel), Honoring legislative intern Eric Blue.
To Rules and Resolutions.

HR 1390 (By Deshotel), Honoring legislative intern Gustavo Nascimento.
To Rules and Resolutions.

HR 1391 (By Deshotel), Honoring legislative intern Marc Gonzalez.
To Rules and Resolutions.

HR 1392 (By Deshotel), Honoring legislative intern Blair Haley.
To Rules and Resolutions.

HR 1393 (By Deshotel), Honoring legislative intern Shunn Rector.
To Rules and Resolutions.

HR 1394 (By Deshotel), Honoring legislative intern Samrawit Sium.
To Rules and Resolutions.

HR 1395 (By Deshotel), Honoring legislative intern Kunal Dura.
To Rules and Resolutions.

HR 1396 (By Deshotel), Honoring legislative intern Paul Molina.
To Rules and Resolutions.

HR 1397 (By Deshotel), Honoring legislative intern Erica A. Hunter.
To Rules and Resolutions.

HR 1398 (By Deshotel), Honoring legislative intern Danielle Vatrice Perry.
To Rules and Resolutions.

HR 1399 (By Deshotel), Honoring legislative intern Christopher Payne.
To Rules and Resolutions.

HR 1400 (By Deshotel), Honoring legislative intern Veronica Garza.
To Rules and Resolutions.

HR 1401 (By Pitts), Honoring Kevin Daskocil of Abbott High School for winning the Class 1A University Interscholastic League state golf title.
To Rules and Resolutions.

HR 1405 (By Lewis), Honoring Morning Chapel Christian Methodist Episcopal Church in Fort Worth on its 135th anniversary.
To Rules and Resolutions.

HR 1407 (By Harper-Brown), Designating the grandchildren of Representative Harper-Brown as honorary mascots.
To House Administration.

SB 319 to State Affairs.

SB 399 to Public Health.

SB 413 to Higher Education.

SB 637 to Insurance.

SB 728 to Appropriations.

SB 954 to County Affairs.

SB 968 to Higher Education.

SB 1219 to Human Services.

SB 1300 to Government Reform.

SB 1930 to Natural Resources.

SCR 48 to Business and Industry.

SCR 55 to State Cultural and Recreational Resources.

SCR 58 to Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 43

HB 292, HB 462, HB 887, HB 1460, HB 1701, HB 2940, HCR 50, HCR 53, HCR 127, HCR 160

Senate List No. 35

SB 146, SB 165, SB 197, SB 252, SB 285, SB 693, SB 1265, SB 1331, SB 1726, SB 1887, SB 1895

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 22, 2003

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

LOCAL AND UNCONTESTED CALENDAR

HB 147 Solomons SPONSOR: Shapleigh
Relating to application of the no-call list provisions to commercial mobile service providers and subscribers.

HB 149 Solomons SPONSOR: Shapleigh
Relating to certain privacy protections for consumer information included in the Texas no-call list.

- HB 275** Keel SPONSOR: Armbrister
Relating to the prosecution of theft of service.
- HB 294** Davis, John SPONSOR: Barrientos
Relating to recognizing March as Texas History Month.
- HB 296** Goodman SPONSOR: Harris
Relating to petition requirements for an application for a place on the general primary election ballot for certain judicial candidates.
- HB 581** Crownover SPONSOR: Fraser
Relating to the medication or drug testing of racing animals under the Texas Racing Act.
- HB 630** Hilderbran SPONSOR: Madla
Relating to the designation of State Highway 173 between Kerrville and Jourdanton as the 173d Airborne Brigade Memorial Highway.
- HB 816** Woolley SPONSOR: Lindsay
Relating to recognizing the week that includes the third Friday in May as Transportation Week.
- HB 874** Menendez SPONSOR: Wentworth
Relating to the driver's license or personal identification card number on a parking placard issued to an individual with a disability.
- HB 900** King SPONSOR: Estes
Relating to the operation of all-terrain vehicles by law enforcement officers.
- HB 1174** Brown, Betty SPONSOR: Staples
Relating to the election officers that serve a branch polling place during the early voting period.
- HB 1330** McReynolds SPONSOR: Staples
Relating to medical information on a driver's license.
- HB 1394** Elkins SPONSOR: Williams
Relating to a revision of the general provisions of the Uniform Commercial Code.
- HB 1439** Eissler SPONSOR: Williams
Relating to the application and enforcement of traffic regulations in private subdivisions in certain counties.
- HB 1539** Naishtat SPONSOR: Wentworth
Relating to associate judges for statutory probate courts.
- HB 1648** Morrison SPONSOR: Shapiro
Relating to standing for certain foster parents to file suit to adopt a child.
- HB 1654** Wohlgemuth SPONSOR: Averitt
Relating to designation of a portion of State Highway 121 in Tarrant and Johnson counties as the Chisholm Trail Parkway.
- HB 1666** Hartnett SPONSOR: Wentworth
Relating to the courts that may approve a transfer of payment rights under certain structured settlements.
- HB 1849** Allen SPONSOR: Whitmire
Relating to the revocation process for certain persons released from the Texas Department of Criminal Justice on parole or mandatory supervision.

(Committee Substitute)

HB 1883 Baxter SPONSOR: Ogden
Relating to the appointment of a voting proxy by a policy board member of a metropolitan planning organization.

(Committee Substitute)

HB 1948 Baxter SPONSOR: Fraser
Relating to the membership of the electric utility restructuring legislative oversight committee.

(Committee Substitute)

HB 2092 Harper-Brown SPONSOR: Wentworth
Relating to the award of certain state highway maintenance contracts.

HB 2093 Harper-Brown SPONSOR: Staples
Relating to electioneering regulations during early voting.

HB 2116 Brown, Fred SPONSOR: Ogden
Relating to the operation of Texas Task Force 1.

(Committee Substitute)

HB 2157 Hartnett SPONSOR: Duncan
Relating to the use of the judicial and court personnel training fund.

HB 2192 Keel SPONSOR: Van de Putte
Relating to the regulation of controlled substances under the Texas Controlled Substances Act and to the prosecution of certain offenses under that Act.

(Amended)

HB 2238 Paxton SPONSOR: Hinojosa
Relating to multiple-party accounts.

HB 2242 Smith, Wayne SPONSOR: Williams
Relating to notice sent by a local government after a mandatory pre-bid conference.

HB 2348 Casteel SPONSOR: Wentworth
Relating to the dissolution of the Southeast Trinity Groundwater Conservation District.

HB 2384 Hegar SPONSOR: Janek
Relating to the unauthorized use of toll roads in certain counties.

HB 2402 Stick SPONSOR: Barrientos
Relating to the compensation of district judges in Collin and Travis counties.

(Committee Substitute)

HB 2682 Denny SPONSOR: Staples
Relating to the designation of permanent places for certain judicial offices.

HB 2683 Denny SPONSOR: Shapiro
Relating to considering for school district accountability purposes the performance of students confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission.

HB 2689 Keffer, Jim SPONSOR: Duncan
Relating to the practice of law.

- HB 2859** Wohlgemuth SPONSOR: Ogden
Relating to the regulation of obstructions to air navigation.
- HB 3089** Dukes SPONSOR: Wentworth
Relating to competitive purchasing procedures for certain counties.
- HB 3248** Callegari SPONSOR: Lindsay
Relating to liability of the state and certain political subdivisions for certain recreational activities.
(Committee Substitute)
- HB 3377** Rangel SPONSOR: Lucio
Relating to the filing of a notice of seizure and intended forfeiture in an asset forfeiture case.
- HB 3386** Hartnett SPONSOR: Averitt
Relating to the adoption of rules by the supreme court relating to the county in which district court proceedings may be conducted.
- HB 3477** Stick SPONSOR: Estes
Relating to the issuance of concealed handgun licenses to residents of certain other states and to reciprocity agreements with other states concerning concealed handgun licenses.
- HB 3542** Laubenberg SPONSOR: Carona
Relating to the regulation of milk and milk products.
- HB 3575** Hegar SPONSOR: Armbrister
Relating to the creation of the Katy Towne Centre Development District; providing authority to impose a tax and issue bonds.
- HCR 16** Flores SPONSOR: Hinojosa
Designating tortilla chips and salsa as the official State Snack of Texas.
- SB 399** Van de Putte
Relating to certain reports required to be filed in connection with certain diseases or other public health conditions.
- SB 413** Madla
Relating to the study of educational opportunities for emergency services personnel.
- SB 637** Nelson
Relating to elimination of the state payment for certain national insurance database fees.
- SB 968** Shapleigh
Relating to a program to promote participation by public junior college students in individual development account programs.
- SB 1300** Madla
Relating to the oversight of regional planning commissions by the governor and the state auditor.
- SCR 48** Van de Putte
Directing the Texas Workers' Compensation Commission to complete a study of prescription drug costs provided under the system, promulgate regulations defining payment methodology, and streamline procedures for claims.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 22, 2003 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 1024 Crownover SPONSOR: Shapiro
Relating to staff development requirements in public schools.
(Amended)

HB 1366 Elkins SPONSOR: Jackson
Relating to the environmental regulation and remediation of certain dry cleaning facilities; providing penalties.

HB 1454 Eiland SPONSOR: Janek
Relating to powers of a property owners' association relating to restrictive covenants in certain subdivisions.
(Amended)

HB 1890 Morrison SPONSOR: Williams
Relating to tuition rebates to certain undergraduate students who graduate from an institution of higher education without excessive semester credit hours.

HB 2351 Kuempel SPONSOR: Averitt
Relating to certain fees collected by the Parks and Wildlife Department.

HB 2474 Callegari SPONSOR: Deuell
Relating to electronic surveillance.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 957 (31 Yeas, 0 Nays)

SB 1271 (viva-voce vote)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 22, 2003 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 156 Krusee SPONSOR: Ogden
Relating to the grant of the power of eminent domain to a regional mobility authority.
(Amended)

HB 1165 Solomons SPONSOR: Janek
Relating to corporations.
(Committee Substitute/Amended)

HB 1208 Lewis SPONSOR: Shapiro
Relating to the mitigation of traffic congestion on highways; providing penalties.
(Committee Substitute)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 22, 2003 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 55 Barrientos
Designating the Mexic-Arte Museum in Austin as the Official Mexican and Mexican American Art Museum of Texas.

Respectfully,
Patsy Spaw

Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 22, 2003 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 319 Armbrister
Relating to the death of or injury to an unborn child; providing penalties.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 21

Agriculture and Livestock - **HR 1079, SB 970**

Corrections - **SB 1093, SB 1834**

Criminal Jurisprudence - **SB 177, SB 600, SB 686, SB 782, SB 1054, SB 1129, SB 1336, SB 1948**

Economic Development - **SB 75, SB 1262, SB 1614, SB 1771**

Environmental Regulation - **HCR 245, HCR 246, SB 455**

Financial Institutions - **SB 902, SB 1664**

Higher Education - **SB 258, SB 286, SB 800, SB 1128, SB 1297, SB 1642**

Human Services - **SB 593, SB 1038, SB 1615**

Judicial Affairs - **SB 518, SB 1923, SB 1932**

Law Enforcement - **SB 52, SB 103, SB 582, SB 943, SB 946, SB 1114**

Licensing and Administrative Procedures - **SB 6, SB 1105, SB 1273**

Local Government Ways and Means - **SB 1705, SB 1784**

Public Education - **SB 265**

State Affairs - **SB 331, SB 1155**

Urban Affairs - **SB 1811, SB 1912, SB 1936**

ENROLLED

May 21 - HB 591, HB 873, HB 904, HB 1030, HB 1061, HB 1078, HB 1117, HB 1153, HB 1221, HB 1306, HB 1452, HB 2012, HB 2498, HB 2676, HB 3508, HCR 13, HCR 14, HCR 151, HJR 61

SENT TO THE GOVERNOR

May 21 - HB 227, HB 263, HB 295, HB 501, HB 854, HB 884, HB 1150, HB 1226, HB 1231, HB 1364, HB 1564, HB 1949, HB 2031, HB 2133, HCR 5, HCR 6, HCR 56, HCR 57, HCR 102, HCR 196, HCR 201, HCR 221

